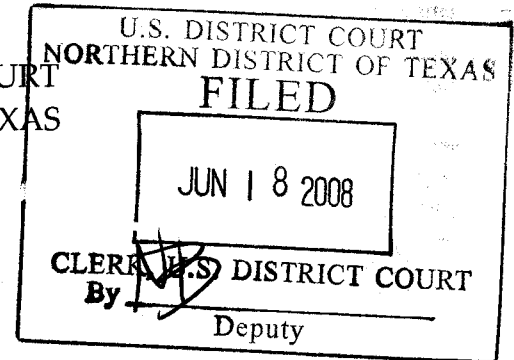


ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



STORMY MAGIERA,
Plaintiff,

V.

CITY OF DALLAS,
Defendant.

§
§
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§
§

Civil Action No: _____

3-08CV1023-G

DEFENDANT CITY OF DALLAS' NOTICE OF REMOVAL

22832

The City of Dallas is the defendant in a civil action brought on September 15, 2006, in the 95th Judicial District Court, Dallas County, Texas. Pursuant to Sections 1441 and 1446 of Title 28 of the United States Code, the City hereby removes this case to the United States District Court for the Northern District of Texas, Dallas Division, which is the judicial district and division in which the action is pending. In support thereof, the City respectfully presents the following:

1. Background Facts

This is an action of a civil nature in which the District Courts of the United States have been given original jurisdiction because it arises under the laws of the United States within the meaning of 28 U.S.C. §1331. Specifically, Plaintiff Stormy Magiera ("Magiera") seeks relief for alleged violations of Title VII of the Civil Rights Act of 1964, as amended, codified in 42 U.S.C. 2000e, *et seq.* ("Title VII").

This Notice is timely under 28 U.S.C. §1446(b) because it is filed within 30 days of the City's receipt of Magiera's Third Amended Petition filed on May 21, 2008, in which Magiera for the first time seeks redress and protection for perceived violations of Title VII. Pursuant to 28 U.S.C. §1446(a), the City attaches to this Notice, and incorporates by reference, copies of all process, pleadings and orders (exclusive of discovery) served on it prior to its removal of this action.

2. Argument and Authorities

28 U.S.C. §1441(a) states:

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

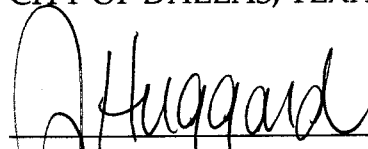
28 U.S.C. §1441 (West 1993). In this case, Magiera's suit may be removed to Federal court because Magiera asserts claims or rights arising under the laws of the United States, making this case removable without regard to citizenship or residence of the parties or amount in controversy.

3. Conclusion

The City respectfully removes this case from the 95th Judicial District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

OFFICE OF THE CITY ATTORNEY
CITY OF DALLAS, TEXAS



JENNIFER CARTER HUGGARD

Assistant City Attorney

Texas State Bar No. 00792998 ✓

JANICE S. MOSS

Assistant City Attorney

Texas State Bar No. 14586050 ✓

City Hall 7CN

1500 Marilla Street

Dallas, Texas 75201

Tel. (214) 670-5622

Fax (214) 670-0622

CERTIFICATE OF SERVICE

On June 18, 2008, a copy of the foregoing document was served in accordance with the Federal Rules of Civil Procedure, on the following:

Mr. William J. Dunleavy
8140 Walnut Hill Lane
One Glen Lakes, Suite 950
Dallas, Texas 75231



JENNIFER CARTER HUGGARD

GARY FITZSIMMONS, DISTRICT CLERK

CASE SUMMARY CASE NO. DC-06-09743

STORMY MAGIERA
vs.
CITY OF DALLAS TEXAS

§
§
§
§

Location: 95th District Court
Judicial Officer: JOHNSON, KAREN
Filed on: 09/15/2006

CASE INFORMATION

Case Type: EMPLOYMENT
Sub Type: EMPLOYMENT
DISCRIMINATION

PARTY INFORMATION

PLAINTIFF MAGIERA, STORMY L

Lead Attorneys
DUNLEAVY, WILLIAM J 972-247-9200
Retained

DEFENDANT CITY OF DALLAS TEXAS

WISE, KATHERINE 214-671-9569
Retained

| DATE | EVENTS & ORDERS OF THE COURT | INDEX |
|------------|---|---|
| 09/15/2006 | ORIGINAL PETITION (OCA) | |
| 09/15/2006 | ISSUE CITATION | |
| 09/18/2006 | CITATION CITY OF DALLAS TEXAS unserved | |
| 11/10/2006 | ISSUE CITATION | |
| 11/13/2006 | CITATION CITY OF DALLAS TEXAS served 11/14/2006 | |
| 12/08/2006 | ORIGINAL ANSWER - DEFENDANT CITY OF DALLAS | |
| 01/09/2007 | NOTE - ADMINISTRATOR UNIFORM SCHEDULING ORDER MAILED ALL PARTIES | |
| 01/09/2007 | NOTE - ADMINISTRATOR NOTICE NON JURY TRIAL 11-26-2007 MAILED ALL PARTIES | |
| 01/09/2007 | SCHEDULING ORDER | Vol./Book 394D, Page 176, 2 pages |
| 01/18/2007 | Special Exceptions (1:30 PM) (Judicial Officer: MCFARLIN, SHERYL) | |
| 02/08/2007 | AMENDED PETITION Party: PLAINTIFF MAGIERA, STORMY L AND REQUEST FOR DISCLOSURE | |
| 02/12/2007 | AMENDED ANSWER - AMENDED GENERAL DENIAL Party: DEFENDANT CITY OF DALLAS TEXAS FIRST | |
| 02/22/2007 | Special Exceptions (1:30 PM) (Judicial Officer: MCFARLIN, SHERYL) | |
| 07/25/2007 | MOTION - MISCELLANEOUS | |

GARY FITZSIMMONS, DISTRICT CLERK

CASE SUMMARY**CASE NO. DC-06-09743**

Party: DEFENDANT CITY OF DALLAS TEXAS
 UNOPPOSED M/AMEND THE COURTS UNIFORM SCHEDULING ORDER

| | |
|------------|---|
| 08/03/2007 | CERTIFICATE OF DEPOSITION SUSAN KATHERINE LASH |
| 08/03/2007 | CERTIFICATE OF DEPOSITION DEBORAH ANN BRANTON |
| 08/29/2007 | NOTE - ADMINISTRATOR NOTICE RESET NON JURY TRIAL TO 3-31-2008 MAILED ALL PARTIES |
| 08/29/2007 | Motion - Vacate (10:00 AM) (Judicial Officer: JOHNSON, KAREN) MEDIATION |
| 09/28/2007 | CERTIFICATE OF DEPOSITION MICHAEL MAGIERA |
| 09/28/2007 | CERTIFICATE OF DEPOSITION STORMY MAGIERA |
| 10/17/2007 | CERTIFICATE OF DEPOSITION LT PAUL SO THAI |
| 11/26/2007 | CANCELED Non Jury Trial CASE TRIAL RESET |
| 11/26/2007 | ORDER - MISC. O/SETTLEMENT WEEK |
| 01/11/2008 | MOTION - CONTINUANCE Party: DEFENDANT CITY OF DALLAS TEXAS UNOPPOSED |
| 01/14/2008 | NOTE - ADMINISTRATOR ORDER CONTINUE NON JURY TRIAL TO 7-7-2008 SIGNED; COPIES MAILED ALL PARTIES |
| 01/14/2008 | ORDER - GRANTING CONTINUANCE |
| 01/16/2008 | CERTIFICATE OF DEPOSITION ANYA ELLEN MURPHY |
| 01/16/2008 | CERTIFICATE OF DEPOSITION ROBERT ROLLA MCCALL JR |
| 01/16/2008 | CERTIFICATE OF DEPOSITION DEBORAH KAY WHITE |
| 01/16/2008 | CERTIFICATE OF DEPOSITION RANDY SUNDQUIST |
| 01/16/2008 | CERTIFICATE OF DEPOSITION KEVIN LYNN HARRIS |
| 01/16/2008 | CERTIFICATE OF DEPOSITION JOHNSEY THERON VANN |

Vol./Book 404D,
 Page276, 1
 pages

Vol./Book 405d,
 Page20, 2 pages

GARY FITZSIMMONS, DISTRICT CLERK

CASE SUMMARY**CASE No. DC-06-09743**

| | |
|------------|--|
| 01/16/2008 | CERTIFICATE OF DEPOSITION RICHARD JOHN FORNESS |
| 01/16/2008 | CERTIFICATE OF DEPOSITION BRUCE NEAL BRYANT |
| 01/16/2008 | CERTIFICATE OF DEPOSITION ANN JEANETTA JACKSON |
| 01/16/2008 | CERTIFICATE OF DEPOSITION BREANNA LYNN VALENTINE |
| 01/18/2008 | CERTIFICATE OF DEPOSITION DAVID CARL JAKABOSKI |
| 03/14/2008 | AMENDED ANSWER - AMENDED GENERAL DENIAL Party: DEFENDANT CITY OF DALLAS TEXAS 2ND |
| 03/31/2008 | CANCELED Non Jury Trial CASE TRIAL RESET |
| 04/21/2008 | AMENDED ANSWER - AMENDED GENERAL DENIAL Party: DEFENDANT CITY OF DALLAS TEXAS 3RD |
| 06/02/2008 | AMENDED ANSWER - AMENDED GENERAL DENIAL Party: DEFENDANT CITY OF DALLAS TEXAS 4TH-CITY OF DALLAS |
| 07/07/2008 | Non Jury Trial (8:30 AM) (Judicial Officer: JOHNSON, KAREN) |

DATE**FINANCIAL INFORMATION**

| | | |
|------------------------------------|---|--------------------------------------|
| PLAINTIFF MAGIERA, STORMY L | | |
| | Total Charges | 233.00 |
| | Total Payments and Credits | 233.00 |
| | Balance Due as of 6/4/2008 | 0.00 |
| 09/15/2006 | Charge | PLAINTIFF MAGIERA, STORMY L 217.00 |
| 09/15/2006 | Charge | PLAINTIFF MAGIERA, STORMY L 8.00 |
| 09/15/2006 | PAYMENT Receipt # 55946-2006-DCLK (CASE FEES) | PLAINTIFF MAGIERA, STORMY L (225.00) |
| 11/10/2006 | Charge | PLAINTIFF MAGIERA, STORMY L 8.00 |
| 11/10/2006 | PAYMENT Receipt # 67248-2006-DCLK (CASE FEES) | PLAINTIFF MAGIERA, STORMY L (8.00) |

LEVEL 4

JUDGE'S DOCKET,

Action:

Filing:

No.

DC-06-09743

Filed: 09/15/2006

EMPLOYMENT 95th District Court

STORMY MAGIERA vs. CITY OF DALLAS TEXAS

Plaintiff
MAGIERA, STORMYLead Attorney
DUNLEAVY, WILLIA
LPDefendant
CITY OF DALLAS T

Lead Attorney



ATTORNEYS:

LF
 William J. Dunleavy 00787404
 1038 Elm St.
 Carrollton, Tx. 75006
 91247-9200
 91247-9201 FAX

12-8-06

Katharine J. Wiole 24044581
 City Hall 7021
 1800 Marilla St.
 Dallas, Tx. 75201
 214) 671-9869
 214) 470-0622 FAX

| JURY DEMAND | DATE | DATE GIVEN | TO | SETTINGS | DATE SET | TIME | DATE GIVEN | TO | SETTINGS | DATE SET | TIME |
|--|------|------------|--------|-------------------------|--------------------|----------|------------------------------------|----|----------|----------|------|
| FEE PAID BY | VOL | PAGE | 1-9-07 | Mediator Kathy Trappoli | 214-528-1411 | | | | | | |
| REPORTED HEARING | | | 1-9-07 | Unif. Sch. Rel. Order | Marked All parties | | | | | | |
| DATE | WT. | EX. | RPTR | 1-9-07 | NST Note | 11-26-07 | Marked All parties | | | | |
| | | | | 8-29-07 | NST Unit | 3-31-08 | Note Marked All parties | | | | |
| | | | | 1-14-08 | NST Unit | 7-7-08 | A/c Continuance Marked All parties | | | | |
| To fed court. <input type="checkbox"/> To another county <input type="checkbox"/> D.W.P. <input type="checkbox"/> Warrant <input type="checkbox"/> Default <input type="checkbox"/> Agreed Jgt <input type="checkbox"/> Summary Jgt <input type="checkbox"/> Ex parte Jgt <input type="checkbox"/> Nonjury trial <input type="checkbox"/> Jgt on verdict <input type="checkbox"/> Dir verd ex NOV <input type="checkbox"/> Other disposition <input type="checkbox"/> | | | | | | | | | | | |
| Voir dire <input type="checkbox"/> Jury sworn <input type="checkbox"/> Ev to jury <input type="checkbox"/> Mistrial <input type="checkbox"/> Hung jury <input type="checkbox"/> Dir verd <input type="checkbox"/> | | | | | | | | | | | |

Jun 4 2008 11:24am P005/006

DALLAS COUNTY RECORDS Fax: 2146537966

UMIC

1-4-07 Uniform Scheduling Order 394-D-176 Copy All

1/18/07 hearing on D's sp. exceptions cancelled per Clerk McPherson

1/29/07 ~~hearing on~~ D's M/A and Ct's USO - deemed to the extent that case shall be placed on Dec 10, 2007 Settlement week at no cost to the litigants, however, the Ct grants & sets aside order designating K Fragola as default mediator; (C) case to be set by agreement of all counsel; (C)

1/26/07 D Settlement Week 404-D-276

1-14-08 A/D Continuance 404-D-276 Copy All

CAUSE NO. 06-09143

FILED

2006 SEP 15 PM 4:17

JIM HAMLIN
DISTRICT CLERK

DALLAS COUNTY, TEXAS

CLERK

STORMY L. MAGIERA,

Plaintiff,

v.

CITY OF DALLAS, TEXAS

Defendant.

D-95th JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

Stormy L. Magiera ("Plaintiff") complains of the City of Dallas, Texas and shows:

I.

DISCOVERY CONTROL PLAN

Plaintiff affirmatively pleads that she seeks monetary relief of more than \$50,000.00, and requests that the Court enter a Discovery Control Plan and place this case in Track III.

II.

PARTIES

- A. Plaintiff Stormy L. Magiera resides in Dallas County, Texas.
- B. Defendant City of Dallas, Texas ("the City") is a municipality and service of process may be accomplished by serving the City Secretary at Dallas City Hall, 1500 Marilla Street, Dallas, Texas.

III.

PLAINTIFF'S ALLEGATIONS OF FACT

- A. Plaintiff was employed by the City during all times relevant to the claims made the

basis of this lawsuit.

B. In the course of her employment with Defendant, Plaintiff was discriminated against based upon her gender (female) and in retaliation for complaining about the illegal discrimination she was subjected to.

C. Between May 22, 2005 and the present, after making complaints about derogatory and discriminatory comments and conduct she was subjected to, Plaintiff was repeatedly retaliated against by her supervisors and co-workers Plaintiff denied the protections of Texas law prohibiting such discrimination.

D. On May 22, 2005, while performing her job duties as a City of Dallas police officer, Plaintiff was subjected to sexual harassment and other sexually discriminatory conduct when a higher ranking City of Dallas police officer, Sergeant Ingram, made references to Plaintiff as "darling" and physically touched Plaintiff's person inappropriately and without Plaintiff's consent.

E. After Sergeant Ingram's improper and offensive conduct, Plaintiff complained through her chain of command and she was subjected to retaliation and adverse employment actions, including being sent off work on sick time, being denied overtime opportunities, being recommended for disciplinary action and suffering lost income.

F. Plaintiff continues to suffer retaliation and she has been and continues to be subjected to a hostile work environment.

G. Plaintiff has filed a charge of discrimination.

H. Plaintiff has been issued a right to sue letter.

I. Plaintiff continues to be harassed by Defendant and denied employment opportunities.

J. Plaintiff was denied employment opportunities and suffered lost wages and benefits in the past due to Defendant's actions and omissions, including the acts and omissions of Defendant's agents and employees. Such lost wages and benefits may continue in the future.

K. Plaintiff suffered mental anguish and emotional distress in the past due to Defendant's actions and omissions, including the acts and omissions of Defendant's agents and employees. Such mental anguish and emotional distress may continue in the future.

L. Plaintiff also seeks her attorney's fees in pursuing her claims as permitted by law.

IV.

CLAIM FOR PREJUDGMENT AND POST-JUDGMENT INTEREST

Plaintiff seeks an award of interest in accordance with Texas Finance Code §304.001 *et seq.*

V.

REQUEST FOR JURY TRIAL

Plaintiff requests a jury trial in this matter.

VI

PLAINTIFFS' REQUEST FOR DISCLOSURE

Plaintiff requests Defendant's disclosures under TEX. R. CIV. P. 194 by service at 1038 Elm Street, Carrollton, Texas 75006, not later than fifty (50) days after service of this Request.

WHEREFORE, Plaintiff Stormy L. Magiera requests Defendant City of Dallas, Texas be cited to appear and answer, and that on final trial, Plaintiff have judgment against Defendant for actual damages, reasonable and necessary attorney's fees, pre-judgment and post-judgment interest,

costs of suit and such other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.


William J. Dunleavy

State Bar No. 00787404

1038 Elm Street

Carrollton, Texas 75006

Telephone No. 972/247-9200

Telecopier No. 972/247-9201

ATTORNEY FOR PLAINTIFF



DALLAS COUNTY CIVIL DISTRICT COURT COVER SHEET

STYLED Stormy L. Magiera v. City of Dallas, Texas 2008 SEP 15 PM 4:17

This Civil Cover Sheet must be completed, filed and served with every petition. The information should be the best available at the time of filing, understanding that the information may change before trial. This information does not constitute a discovery request, response, or supplementation, and is not admissible at trial. Check (✓) all applicable boxes.

| | |
|---|--|
| Plaintiff(s) <input type="checkbox"/> Pro Se Address _____ Telephone/Fax _____ E-mail _____ Attorney for Plaintiff(s) <u>William J. Dunleavy</u> State Bar No. <u>00787404</u> Address <u>1038 S. Elm Street</u> <u>Carrollton, TX 75006</u> Telephone/Fax <u>972/247-9200</u> E-mail <u>972/247-9201</u> | Defendant(s) (list separately) <u>City of Dallas, Texas</u> _____ _____ _____ _____ _____ _____ _____ _____ |
|---|--|

PARTIES MUST CHECK ONE CASE TYPE AND MAY CHECK ONE SUB-TOPIC

| | | |
|--|---|---|
| <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Code Violations <input type="checkbox"/> Condemnation <input type="checkbox"/> Construction <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Defamation <input type="checkbox"/> Other Commercial Dispute <input type="checkbox"/> Antitrust/Unfair Comp <input type="checkbox"/> Consumer/DIPA <input type="checkbox"/> Franchise <input type="checkbox"/> Fraud/Misrep <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Non-Competes <input type="checkbox"/> Partnership <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other Commercial <input type="checkbox"/> Discipline <input type="checkbox"/> Discovery <input type="checkbox"/> Rule 202 Depositions <input type="checkbox"/> Commissions <input type="checkbox"/> Subpoena <input type="checkbox"/> Letters Rogatory <input type="checkbox"/> Other Discovery <input type="checkbox"/> Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation | <input type="checkbox"/> Termination <input type="checkbox"/> Other Employment <input type="checkbox"/> Foreclosure <input type="checkbox"/> R 736 <input type="checkbox"/> Other than R 736 <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Insurance <input type="checkbox"/> Mass Tort/MDL/Rule 11 <input type="checkbox"/> Asbestos <input type="checkbox"/> Baycol <input type="checkbox"/> Breast Implant <input type="checkbox"/> Firestone <input type="checkbox"/> Phen-Fen <input type="checkbox"/> Silica <input type="checkbox"/> Other Multi-Party <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Other Personal Injury <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Product <input type="checkbox"/> Premises <input type="checkbox"/> Other Personal Injury <input type="checkbox"/> Name Change <input type="checkbox"/> Post-Judgment <input type="checkbox"/> Professional Liability <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Med/Mal <input type="checkbox"/> Other Prof. Liab. <input type="checkbox"/> Property | <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass/Try Title <input type="checkbox"/> Other Property <input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Tax Land Bank <input type="checkbox"/> Tax Personal <input type="checkbox"/> Tax Real <input type="checkbox"/> Workers Comp <input type="checkbox"/> Other ADDITIONAL SUB-TOPICS <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Discovery <input type="checkbox"/> Class Action <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Severance <input type="checkbox"/> TRO/Injunction <input type="checkbox"/> Turnover |
|--|---|---|

DISCOVERY LEVEL

☐ Level 1

☐ Level 2

☒ Level 3

Local Rule 1.08 Certification (Must be completed and signed)

☒ This case is not subject to transfer pursuant to Local Rule 1.07, OR

☐ This case is related to another case filed or disposed of in Dallas County:

Court: _____ Style: _____

Case No. _____

William J. Dunleavy

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To:

**CITY OF DALLAS TEXAS
BY SERVING THE CITY SECRETARY
DALLAS CITY HALL
1500 MARILLA STREET
DALLAS, TX 00000**

RECEIVED

JUN 19 10 41 AM '08

CITY SECRETARY
DALLAS, TEXAS

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Dallas, Texas 75202.

Said Plaintiff being **STORMY L. MACIERA**

Filed in said Court on this the **15th day of September, 2006** against

CITY OF DALLAS TEXAS

For suit, said suit being numbered **DC-06-09743-D**, the nature of which demand is as follows:
Suit On EMPLOYMENT etc. as shown on said petition **DISCOVERIES ATTACHED**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: JIM HAMLIN, Clerk of the District Courts of Dallas, County Texas.

Given under my name and the Seal of said Court at office on this **13th day of November, 2006**

ATTEST: JIM HAMLIN

Clerk of the District Courts of Dallas, County, Texas

By *Edith Ciuccio*

EDITH CIUCCIO



ATTY

CITATION

No. : **DC-06-09743-D**

STORMY MACIERA

vs.

CITY OF DALLAS TEXAS

ISSUED

on this the **13th day of November, 2006**

JIM HAMLIN

Clerk District Courts,
Dallas County, Texas

By **EDITH CIUCCIO**, Deputy

Attorney for Plaintiff

WILLIAM J DUNLEAVY

1038 ELM STREET

CARROLLTON TX 75006

972-247-9200

100 COPY OF CITATION
MAILED TO YOU ON
11-14-06
J. E. Smith

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

RECEIVED

2006 NOV 14 AM 10:41

To:
CITY OF DALLAS TEXAS
BY SERVING THE CITY SECRETARY
DALLAS CITY HALL
1500 MARILLA STREET
DALLAS, TX 00000

CITY SECRETARY
DALLAS, TEXAS

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the 95th District Court at 600 Commerce Street, Dallas, Texas 75202.

Said Plaintiff being **STORMY L. MAGIERA**

Filed in said Court on this the 15th day of September, 2006 against

CITY OF DALLAS TEXAS

For suit, said suit being numbered **DC-06-09743-D**, the nature of which demand is as follows:
Suit On EMPLOYMENT etc. as shown on said petition **DISCOVERIES ATTACHED**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: JIM HAMLIN, Clerk of the District Courts of Dallas, County Texas.

Given under my name and the Seal of said Court at office on this 13th day of November, 2006

ATTEST: JIM HAMLIN

Clerk of the District Courts of Dallas, County, Texas

By Edith Ciuccio, Deputy
EDITH CIUCCIO

ON 11-14 RECEIVED 10:00 AM
TIME
GRANDSTAFF AND PROCESS
DALLAS COUNTY, TEXAS
CITATION

No. : **DC-06-09743-D**

STORMY MAGIERA

vs.

CITY OF DALLAS TEXAS

ISSUED

on this the 13th day of November,
2006

JIM HAMLIN

Clerk District Courts,
Dallas County, Texas

By **EDITH CIUCCIO**, Deputy

Attorney for Plaintiff
WILLIAM J DUNLEAVY
1038 ELM STREET
CARROLLTON TX 75006
972-247-9200

DALLAS COUNTY CONSTABLE

FEES
PAID
FEES NOT
PAID

OFFICER'S RETURN

Came to hand on the 14th day of November, 20 06, at 10:00 o'clock A. 10:41 M. Executed
 at 1500 Marilla St. Dallas, Texas, within the County of Dallas at 10:41 o'clock
 A. 10:41 M. on the 14th day of November, 20 06, by delivering to the within
 named

City of Dallas, Texas, by delivering to the City Secretary

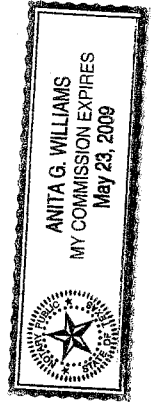
each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery.
 The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation \$ 60.00 Grandstaff Civil Process Co.
 For mileage \$ _____ of Dallas County, Texas
 For Notary TOTAL \$ 60.00 Pd. By Charles Grandstaff SC000000532 Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said Charles Grandstaff before me this 14th day of November, 20 06,
 to certify which witness my hand and seal of office.

Anita Williams
 Notary Public Dallas County Texas



[Signature]
 2006 NOV 27 PM 12:14

FILED

CAUSE NO. DC-06-09743-D

STORMY MAGIERA

Plaintiff,

V.

CITY OF DALLAS, TEXAS,

Defendant.

§
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§
§
§
§

IN THE DISTRICT COURT

95th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

05 DEC -8 PM 2:30
FILED
CLERK
DALLAS COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER,
SPECIAL EXCEPTIONS, AND AFFIRMATIVE DEFENSES

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant City of Dallas, Texas, and files this its Original Answer, Special Exceptions, and Affirmative Defenses in response to Plaintiff's Original Petition, and respectfully shows the Court the following:

I. SPECIAL EXCEPTIONS

1. Defendant specially excepts to Plaintiff's Original Petition because it fails to state a cause of action. Although the Original Petition appears to assert a cause of action for employment discrimination and retaliation, the pleading fails to state a legally cognizable cause of action because it does not identify any basis in federal or state law for the claim. Plaintiff simply alleges that she "was discriminated against based upon her gender (female) and in retaliation for complaining about the illegal discrimination she was subjected to." Plaintiff's Original Petition, Section III, ¶ B. Plaintiff does not indicate whether or not she is filing her claim pursuant to Title VII, Chapter 21 of the Texas Labor Code, or any other state or federal law. Defendant requests that the Court make an order sustaining this special exception, requiring Plaintiff to amend the petition to state a cause of action, and providing that, if Plaintiff fails or refuses to amend, the action will be dismissed.

2. Defendant further specially excepts to Plaintiff's Original Petition because by failing to state a cause of action, Plaintiff has failed to affirmatively demonstrate the Court's jurisdiction to hear the lawsuit under a statute that waives the City of Dallas' governmental immunity from suit. The City of Dallas is a municipal corporation organized and existing as a political subdivision and a unit of government of the State of Texas, and as a home-rule city under the Home-Rule Amendment of the constitution of the State of Texas and the Texas Revised Civil Statutes Annotated, Article 1175. As a municipal corporation, the City of Dallas enjoys immunity from suit and liability absent a legislative waiver of that immunity. Plaintiff has failed to plead any basis for a waiver of Defendant's immunity from suit or liability. Defendant requests that the Court make an order sustaining this special exception, requiring Plaintiff to amend the petition to identify the basis for the statutory waiver of the City of Dallas' immunity from suit and liability, and providing that, if Plaintiff fails or refuses to amend, the action will be dismissed.

3. Defendant further specially excepts to Plaintiff's Original Petition because it fails to establish that Plaintiff has complied with all applicable statutes of limitation and exhausted all applicable administrative remedies, such as timely filing a complaint with the Texas Commission on Human Rights and/or the Equal Employment Opportunity Commission. Defendant requests that the Court make an order sustaining the special exception, requiring Plaintiff to amend the petition to establish that all applicable statutes of limitation have been complied with and all applicable administrative remedies have been exhausted, and providing that, if Plaintiff fails or refuses to amend, the action will be dismissed.

4. Defendant reserves the right to request removal of this lawsuit to federal court if and when Plaintiff amends her petition to identify a federal cause of action.

II. GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant denies generally each and every allegation contained within Plaintiff's Original Petition, and demands strict proof thereof by a preponderance of the evidence.

III. AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative defenses:

1. Defendant affirmatively invokes the defense of governmental immunity and would show that the City of Dallas is a municipal corporation organized and existing as a political subdivision and a unit of government of the State of Texas, and as a home-rule city under the Home-Rule Amendment to the Constitution of the State of Texas and the provisions applicable to the Home-Rule Municipalities as set forth in the Local Government Code of the State of Texas.
2. Defendant affirmatively pleads that Section 101.057(2) of the Texas Tort Claims Act bars recovery against the Defendant for any intentional torts committed by its officers, agents and employees.
3. To the extent that Plaintiff alleges any negligent acts or omissions on the part of Defendant, Defendant affirmatively pleads that the immunity of Defendant for the negligent acts or omissions of its officers, agents, and/or employees acting in the course and scope of their employment, is waived only to the extent set forth in the Texas Tort Claims Act, Tex. Civ. Prac. & Rem. Code, §101.001, *et. seq.* In the unlikely event Plaintiff can prove a cause of action against Defendant, Plaintiff's monetary recovery will be governed by the limits set forth therein.
4. Defendant affirmatively pleads that on all occasions in question its employees, representatives, and agents acted in good faith within the scope of their discretionary authority.

5. Defendant affirmatively pleads that on all occasions in question its employees, representatives, and agents did not violate any clearly established law of which a reasonable person would have known.

6. Defendant affirmatively pleads that no act or omission on its part or on the part of its employees proximately caused Plaintiff's alleged damages, if any.

7. To the extent that Plaintiff's cause of action falls outside the applicable statute of limitations, Defendant affirmatively pleads such statute of limitations.

8. Defendant affirmatively pleads it is not liable to the extent that Plaintiff has failed to mitigate her alleged damages, if any.

9. Defendant affirmatively pleads that on all occasions in question, its employees acted without malice and without intent to deprive Plaintiff of any legally protected rights.

10. Defendant affirmatively pleads that punitive and exemplary damages are not recoverable against a municipality under state law. Defendant affirmatively pleads that in the unlikely event Plaintiff can prove punitive and exemplary damages against Defendant, then Plaintiff's monetary recovery would be governed by the limits set forth by Texas Civil Practice and Remedies Code §41.001, *et. seq.*

III. OTHER DEFENSES


1. To the extent Plaintiff has failed to exhaust all administrative remedies, Defendant affirmatively pleads that Plaintiff has failed to meet the prerequisites and conditions precedent for filing this civil action.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant City of Dallas, Texas, prays that Plaintiff takes nothing by this suit, that all relief requested by Plaintiff be denied.

Respectfully submitted,

OFFICE OF THE CITY ATTORNEY
CITY OF DALLAS, TEXAS



KATHERINE J. WISE
Assistant City Attorney
Texas State Bar No. 24044581
JANICE S. MOSS
Assistant City Attorney
Texas State Bar No. 14586050
City Hall 7DN
1500 Marilla Street
Dallas, Texas 75201
Tel. (214) 671-9569
Fax (214) 670-0622

CERTIFICATE OF CONFERENCE

I, the undersigned attorney, hereby certify to the Court that I have conferred with opposing counsel in an effort to resolve the issues contained in this motion without the necessity of Court intervention, and opposing counsel has indicated that he does not have a position with regard to this motion at this time, but he will confer with his client.

Certified to on the 7th day of December 2006.



KATHERINE J. WISE

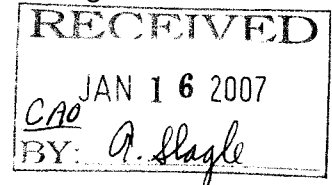
CERTIFICATE OF SERVICE

On December 8, 2006, a copy of the foregoing document was provided via certified mail, return receipt requested to the following:

Mr. William J. Dunleavy
1038 S. Elm Street
Carrollton, Texas 75006



KATHERINE J. WISE



95TH DISTRICT COURT
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202-4604

1/9/2007

WILLIAM J DUNLEAVY – COUNSEL FOR PLAINTIFF
1038 ELM ST
CARROLLTON TX 75006

KATHERINE WISE – COUNSEL FOR DEFENDANT
CITY ATTORNEYS OFFICE
1500 MARILLA 7CN
DALLAS TX 75201

RE: DC-06-09743
STORMY MAGIERA vs. CITY OF DALLAS TEXAS

PLEASE TAKE NOTE OF THE FOLLOWING SETTINGS:

NON-JURY TRIAL: 11/26/2007 @ 8:00 AM

TRIAL ANNOUNCEMENTS MUST BE MADE IN ACCORDANCE WITH RULE 3.02, LOCAL RULES OF THE CIVIL COURT OF DALLAS COUNTY, TEXAS.

WHEN NO ANNOUNCEMENT IS MADE FOR DEFENDANT, DEFENDANT WILL BE PRESUMED READY. IF PLAINTIFF FAILS TO ANNOUNCE OR TO APPEAR AT TRIAL, THE CASE WILL BE DISMISSED FOR WANT OF PROSECUTION IN ACCORDANCE WITH RULE 165a, TEXAS RULES OF CIVIL PROCEDURE.

COMPLETION OF DISCOVERY, PRESENTATION OF PRETRIAL MOTIONS AND OTHER MATTERS RELATING TO PREPARATION FOR TRIAL ARE GOVERNED BY THE TEXAS RULES OF CIVIL PROCEDURE.

PLEASE FORWARD A COPY OF THIS NOTICE TO COUNSEL OF RECORD FOR EACH PARTY AND ALL PRO SE PARTIES BY A METHOD APPROVED IN TEXAS RULES OF CIVIL PROCEDURE 21a.

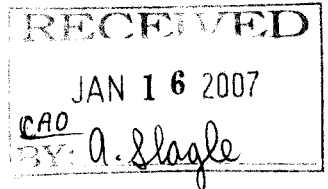
SINCERELY,

PRESIDING JUDGE
95th District Court
DALLAS COUNTY, TEXAS

Cc:
KATHY FRAGNOLI – MEDIATOR
4514 COLE AVE., STE. 1450
DALLAS TX 75205

5. list of deposits
25 mgs

CAUSE NO. DC-06-09743



STORMY MAGIERA
vs.
CITY OF DALLAS TEXAS

In the District Court
Dallas County, Texas
95th District Court

UNIFORM SCHEDULING ORDER (LEVEL 1 OR 2)

(Revised June 1, 2001)

In accordance with Rules 166, 190 and 192 of the Texas Rules of Civil Procedure, the Court makes the following order to control discovery and the schedule of this cause.

1. This case will be ready and is set for **NON JURY TRIAL** on **November 26, 2007** at 8:00 AM. (the "Initial Trial Setting"). Reset or continuance of the Initial Trial Setting will not alter any deadlines established in this Order or established by the Texas Rules of Civil Procedure, unless otherwise provided by order. If not reached as set, the case may be carried to the next week.

2. Unless otherwise ordered, discovery in this case will be controlled by:

() Rule 190.2 (Level 1)

(X) Rule 190.3 (Level 2)

of the Texas Rules of Civil Procedure. Except by agreement of the party, leave of court, or where expressly authorized by the Texas Rules of Civil Procedure, no party may obtain discovery of information subject to disclosure under Rule 194 by any other form of discovery.

3. Any objection or motion to exclude or limit expert testimony due to qualification of the expert or reliability of the opinions must be filed no later than seven (7) days after the close of the discovery period, or such objection is waived. Any motion to compel responses to discovery (other than relating to factual matters arising after the end of the discovery period) must be filed no later than seven (7) days after the close of the discovery period or such complaint is waived, except for the sanction of exclusion under Rule 193.6.

4. Any amended pleadings asserting new causes of action or affirmative defenses must be filed no later than thirty (30) days before the end of the discovery period and any other amended pleadings must be filed no later than seven (7) days after the end of the discovery period. Amended pleadings responsive to timely filed pleadings under this schedule may be filed after the deadline for amended pleadings if filed within two (2) weeks after the pleading to which they respond. Except with leave of court, TRCP 166a(c) motions must be heard no later than thirty (30) days before trial.

5. No additional parties may be joined more than five (5) months after the commencement of this case except on motion for leave showing good cause. This paragraph does not otherwise alter the requirements of Rule 38. The party joining an additional party shall serve a copy of this Order on the new party concurrently with the pleading joining that party.

6. The parties shall mediate this case no later than thirty (30) days before the Initial Trial Setting, unless otherwise provided by court order. Mediation will be conducted in accordance with the Standing Dallas County Civil District Court Order Regarding Mediation, which is available from the Dallas County ADR Coordinator. All parties shall contact the mediator to arrange the mediation.

(X) The mediator may be selected by agreement of all parties; if one cannot be agreed upon within ninety (90) days **KATHY FRAGNOLI 214-528-1411** is hereby appointed mediator. The parties must advise both the Court and the aforementioned mediator in writing of any agreed mediator within ninety (90) days of the date this Order is signed. Any mediator substitution requested beyond such time may only be made by motion for submission to the Court for good cause and under extraordinary circumstances.

() Unless otherwise ordered by the Court, the parties shall select a mediator by agreement; if the parties are unable to agree on a mediator, they shall advise the Court within ninety (90) days of the date of this order; the Court will then appoint a mediator.

7. Fourteen (14) days before the Initial Trial Setting, the parties shall exchange a list of exhibits, including any demonstrative aids and affidavits, and shall exchange copies of any exhibits not previously produced in discovery; over-designation is strongly discouraged and may be sanctioned. Except for records to be offered by way of business record affidavits, each exhibit must be identified separately and not by category or group designation. Rule 193.7 applies to this designation. On or before ten (10) days before the Initial Trial Setting, the attorneys in charge for all parties shall meet in person to confer on stipulations regarding the materials to be submitted to the Court under this paragraph and attempt to maximize agreement on such matters. By 4 p.m. on the Thursday before the Initial Trial Setting, the parties shall file with the Court the materials stated in Rule 166(e)-(l), an estimate of the length of trial, designation of deposition testimony to be offered in direct examination, and any motions in limine. Failure to file such materials may result in dismissal for want of prosecution or other appropriate sanction.

Plaintiff/Plaintiff's counsel shall serve a copy of this Order on any currently named defendant(s) answering after this date.

SIGNED January 9, 2007

*Failure to appear at the trial setting shall result
in dismissal of this case for want of prosecution.*



District Judge

CAUSE NO. DC-06-09743-D

STORMY MAGIERA,

Plaintiff

v.

CITY OF DALLAS, TEXAS,

Defendant.

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IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

95th JUDICIAL DISTRICT

NOTICE OF CHANGE OF ADDRESS

This Notice is to advise the Court and all counsel that Counsel for Plaintiff, William J.

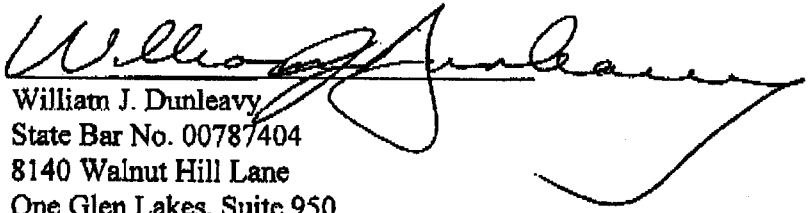
Dunleavy, has a new address, which is set out below:

**8140 Walnut Hill Lane
One Glen Lakes, Suite 950
Dallas, Texas 75231**

Counsel's telephone and facsimile numbers remain unchanged and are 972/247-9200 and 972/247-9201 respectively.

Respectfully submitted,

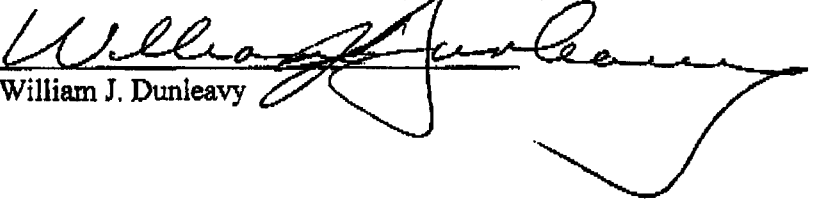
LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.


William J. Dunleavy
State Bar No. 00787404
8140 Walnut Hill Lane
One Glen Lakes, Suite 950
Dallas, Texas 75231
Telephone No. 972/247-9200
Telecopier No. 972/247-9201

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon all counsel of record pursuant to the Texas Rules of Civil Procedure on this 11th day of January, 2007.


William J. Dunleavy

CAUSE NO. DC-06-09743-D

STORMY L. MAGIERA,

Plaintiff,

v.

CITY OF DALLAS, TEXAS

Defendant.

§ IN THE DISTRICT COURT OF
§
§
§
§ DALLAS COUNTY, TEXAS
§
§
§
§ 95th JUDICIAL DISTRICT

PLAINTIFF'S AMENDED PETITION AND REQUEST FOR DISCLOSURE

Stormy L. Magiera ("Plaintiff") complains of the City of Dallas, Texas and shows:

I.

DISCOVERY CONTROL PLAN

Plaintiff affirmatively pleads that she seeks monetary relief of more than \$50,000.00, and requests that the Court enter a Discovery Control Plan and place this case in Track III.

II.

PARTIES

A. Plaintiff Stormy L. Magiera resides in Dallas County, Texas.

B. Defendant City of Dallas, Texas ("the City") is a municipality and service of process has been accomplished.

III.

PLAINTIFF'S ALLEGATIONS OF FACT

A. Plaintiff was employed by the City during all times relevant to the claims made the basis of this lawsuit.

B. In the course of her employment with Defendant, Plaintiff was discriminated against

based upon her gender (female) and in retaliation for complaining about the illegal discrimination she was subjected to, which conduct violates TEXAS LABOR CODE § 21.051.

C. Between May 22, 2005 and the present, after making complaints about derogatory and discriminatory comments and conduct she was subjected to, Plaintiff was repeatedly retaliated against by her supervisors and co-workers and Plaintiff was denied the protections of Texas law, including TEXAS LABOR CODE § 21.051, prohibiting such discrimination.

D. On May 22, 2005, while performing her job duties as a City of Dallas police officer, Plaintiff was subjected to sexual harassment and other sexually discriminatory conduct when a higher ranking City of Dallas police officer, Sergeant Ingram, made references to Plaintiff as "darling" and physically touched Plaintiff's person inappropriately and without Plaintiff's consent.

E. After Sergeant Ingram's improper and offensive conduct, Plaintiff complained through her chain of command and she was subjected to retaliation and adverse employment actions, including being sent off work on sick time, being denied overtime opportunities, being recommended for disciplinary action and suffering lost income.

F. Plaintiff continues to suffer retaliation and she has been and continues to be subjected to a hostile work environment.

G. Plaintiff filed a charge of discrimination.

H. Plaintiff has been issued a right to sue letter.

I. Plaintiff continues to be harassed by Defendant and denied employment opportunities, including Defendant's refusal to permit Plaintiff to serve as a training officer.

J. Plaintiff has suffered lost wages and benefits in the past due to Defendant's actions and omissions, including the acts and omissions of Defendant's agents and employees. Such lost

wages and benefits may continue in the future.

K. Plaintiff suffered mental anguish and emotional distress in the past due to Defendant's actions and omissions, including the acts and omissions of Defendant's agents and employees. Such mental anguish and emotional distress may continue in the future.

L. Plaintiff also seeks her attorney's fees in pursuing her claims as permitted by law.

IV.

GENDER DISCRIMINATION AND RETALIATION CLAIMS

A. Plaintiff shows she was subjected to illegal discrimination as a result of the conduct of Defendant City of Dallas, Texas and its agents and employees because of her gender.

B. After complaining of the illegal discrimination, Plaintiff was subjected to retaliation because of her complaints.

C. Plaintiff has been denied job opportunities, including the opportunity to work overtime or to serve as a training officer and the denial of other assignments because of the illegal discrimination and retaliation by Defendant.

D. Defendant's conduct violates TEXAS LABOR CODE § 21.051.

E. Plaintiff suffered damages as a result of Defendant's conduct.

V.

DEPRIVATION OF PROPERTY RIGHTS WITHOUT DUE COURSE OF LAW

A. Plaintiff has been damaged and will continue to be damaged by Defendant's actions that deprive Plaintiff of her property rights in her employment without due course of law, including the right to work free from illegal discrimination and retaliation, which property rights were established when Plaintiff completed her probationary term of employment.

- B. Plaintiff alleges that the conduct of Defendant in failing to enforce TEXAS LABOR CODE § 21.051 and permitting the continued retaliation against her amounts to a denial of Plaintiff's property rights in employment without due course of law.
- C. Plaintiff seeks her damages suffered as a result of Defendant's conduct.
- D. Plaintiff seeks equitable relief, including an injunction, to compel Defendant to enforce TEXAS LABOR CODE § 21.051 and to prohibit the continued retaliation against Plaintiff that is occurring because Plaintiff complained about illegal discrimination.

VI.

WAIVER OF SOVEREIGN IMMUNITY

- A. Defendant is not immune from suit, nor immune from liability, because the actions of its agents and employees subjected Plaintiff to illegal discrimination and retaliation and deprived Plaintiff of property rights in her employment, or damaged those rights, without due course of law.
- B. Plaintiff's property rights in her continued employment, including the right to work free from illegal discrimination and retaliation, have been and are being damaged by Defendant's failure to enforce and obey Texas law, including TEXAS LABOR § 21.051.
- C. The Texas Constitution, Art. I, § 19, states "No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land".
- D. Plaintiffs' claims in equity are allowed by Texas Constitution Art. I, § 29.¹
- E. Defendant lacks immunity as to Plaintiff's discrimination and retaliation claims because

¹*City of Beaumont v. Bouillion*, 896 S.W.2d 143, 149 (Tex.1995).

sovereign or governmental immunity was waived by the Texas Legislature, in clear and unambiguous language, by the Texas Commission on Human Rights Act.

F. The Texas Legislature has defined "employers" in TEXAS LABOR CODE § 21.008(c) to include "a political subdivision of this state" and has made governmental entities subject to the Texas Commission on Human Act when governments are also employers. This language of the Texas Commission on Human Act is a waiver of sovereign or governmental immunity.²

VII.

CLAIM FOR PREJUDGMENT AND POST-JUDGMENT INTEREST

Plaintiff seeks an award of interest in accordance with Texas Finance Code §304.001 *et seq.*

VIII

REQUEST FOR JURY TRIAL

Plaintiff requests a jury trial in this matter.

IX

PLAINTIFFS' REQUEST FOR DISCLOSURE

Plaintiff requests Defendant's disclosures under TEX. R. CIV. P. 194 by service at 8140 Walnut Hill Lane, One Glen Lakes, Suite 950, Dallas, Texas 75231 not later than thirty (30) days after service of this Request.

WHEREFORE, Plaintiff Stormy L. Magiera requests Defendant City of Dallas, Texas be cited to appear and answer, and that on final trial, Plaintiff have judgment against Defendant for

²*Sauls v. Montgomery County*, 18 S.W.3d 310 (Tex.App.-Beaumont 2000, no writ).

actual damages, reasonable and necessary attorney's fees, pre-judgment and post-judgment interest, costs of suit and such other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

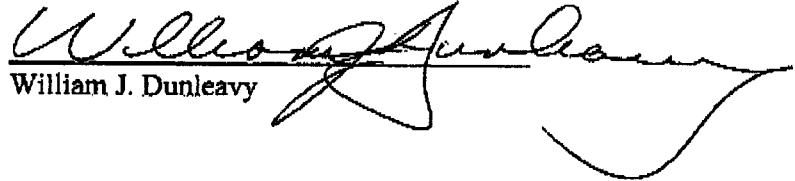
LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.



William J. Dunleavy
State Bar No. 00787404
8140 Walnut Hill Lane
One Glen Lakes, Suite 950
Dallas, Texas 75231
Telephone No. 972/247-9200
Telecopier No. 972/247-9201

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon all counsel of record pursuant to the Texas Rules of Civil Procedure on this 2nd day of February 2007.



William J. Dunleavy

LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.

8140 Walnut Hill Lane
One Glen Lakes, Suite 950
Dallas, Texas 75231

Telephone 972/247-9200
Telecopier 972/247-9201
E-mail: bill@williamjdunleavy.com

William J. Dunleavy
Certified-Texas Board of Legal Specialization
Personal Injury Trial Law

Member-College of the State Bar of Texas

FAX COVER SHEET

IMPORTANT NOTICE: This facsimile is intended only for the person or company to which it is addressed. This facsimile contains information that may be privileged, confidential and exempt from disclosure under state and/or federal law. If this facsimile is received by someone who is not the intended recipient or an employee or agent of the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this facsimile in error, please notify us immediately at 972/247-9200. We will arrange for the return of this facsimile at no cost to you.

Date: 02/02/2007

Time: 1:30 p.m.

Pages, Including Cover Sheet: 8

Case: Magiera v. City of Dallas, Texas

ASAP: _____

Normal: _____

To: Katherine J. Wise

Phone: 214/671-9569

Fax No: 214/670-0622

From: William J. Dunleavy

Phone: 972/247-9200

Fax No: 972/247-9201

☐ IMMEDIATE REPLY REQUESTED

☒ ORIGINAL WILL NOT FOLLOW

☐ ORIGINAL WILL FOLLOW BY: ☐ U.S. Mail ☐ Express Delivery ☐ Other _____

Comments: _____

Please call (972) 247-9200 if this facsimile is not complete or legible.

LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.

8140 Walnut Hill Lane
One Glen Lakes, Suite 950
Dallas, Texas 75231

Telephone 972/247-9200
Telecopier 972/247-9201
E-mail: bill@williamjdunleavy.com

William J. Dunleavy
Certified-Texas Board of Legal Specialization
Personal Injury Trial Law

Member-College of the State Bar of Texas

February 2, 2007

Via Facsimile 214/670-0622
Ms. Katherine J. Wise
Office of the City Attorney
7BN Dallas City Hall
1500 Marilla Street
Dallas, TX 75201

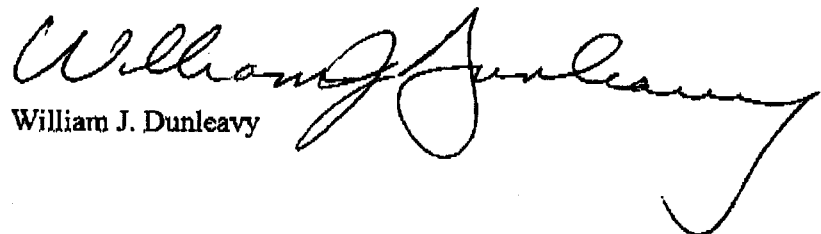
RE: *Magiera v. City of Dallas*
Cause No. 06-09743

Ms. Wise:

Enclosed is Plaintiff's First Amended Petition and Request for Disclosure. Unfortunately, I was called away from the office yesterday and I was unable to get this to you as I planned.

Please call me if you have any questions.

With kind regards,


William J. Dunleavy

WJD/ck
enclosure
cc: Ms. Stormy Magiera

LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.

8140 Walnut Hill Lane
One Glen Lakes, Suite 950
Dallas, Texas 75231

Telephone 972/247-9200
Telecopier 972/247-9201
E-mail: bill@williamjdunleavy.com

William J. Dunleavy
Certified-Texas Board of Legal Specialization
Personal Injury Trial Law

Member-College of the State Bar of Texas

FAX COVER SHEET

IMPORTANT NOTICE: This facsimile is intended only for the person or company to which it is addressed. This facsimile contains information that may be privileged, confidential and exempt from disclosure under state and/or federal law. If this facsimile is received by someone who is not the intended recipient or an employee or agent of the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this facsimile in error, please notify us immediately at 972/247-9200. We will arrange for the return of this facsimile at no cost to you.

Date: 01/11/2007

Time: 4:45 p.m.

Pages, Including Cover Sheet: 3

Case: Magiera v. City of Dallas, Texas

ASAP: _____

Normal: _____

To: Katherine J. Wise

Phone: 214/671-9569

Fax No: 214/670-0622

From: William J. Dunleavy

Phone: 972/247-9200

Fax No: 972/247-9201

☐ IMMEDIATE REPLY REQUESTED

☐ ORIGINAL WILL NOT FOLLOW

☐ ORIGINAL WILL FOLLOW BY: ☐ U.S. Mail ☐ Express Delivery ☐ Other _____

Comments: _____

Please call (972) 247-9200 if this facsimile is not complete or legible.

CAUSE NO. DC-06-09743-D

STORMY MAGIERA

Plaintiff,

V.

CITY OF DALLAS, TEXAS,

Defendant.

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IN THE DISTRICT COURT

95th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**DEFENDANT'S FIRST AMENDED ANSWER, AFFIRMATIVE DEFENSES
AND REQUESTS FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant City of Dallas, Texas, and files this its Original Answer, Special Exceptions, and Affirmative Defenses in response to Plaintiff's Original Petition, and respectfully shows the Court the following:

I. GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant denies generally each and every allegation contained within Plaintiff's Original Petition, and demands strict proof thereof by a preponderance of the evidence.

II. AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative defenses:

1. Defendant affirmatively invokes the defense of governmental immunity and would show that the City of Dallas is a municipal corporation organized and existing as a political subdivision and a unit of government of the State of Texas, and as a home-rule city under the Home-Rule Amendment to the Constitution of the State of Texas and the provisions applicable to the Home-Rule Municipalities as set forth in the Local Government Code of the State of Texas.

2. Defendant affirmatively pleads that Section 101.057(2) of the Texas Tort Claims Act bars recovery against the Defendant for any intentional torts committed by its officers, agents and employees.

3. To the extent that Plaintiff alleges any negligent acts or omissions on the part of Defendant, Defendant affirmatively pleads that the immunity of Defendant for the negligent acts or omissions of its officers, agents, and/or employees acting in the course and scope of their employment, is waived only to the extent set forth in the Texas Tort Claims Act, Tex. Civ. Prac. & Rem. Code, §101.001, *et. seq.* In the unlikely event Plaintiff can prove a cause of action against Defendant, Plaintiff's monetary recovery will be governed by the limits set forth therein.

4. Defendant affirmatively pleads that on all occasions in question its employees, representatives, and agents acted in good faith within the scope of their discretionary authority.

5. Defendant affirmatively pleads that on all occasions in question its employees, representatives, and agents did not violate any clearly established law of which a reasonable person would have known.

6. Defendant affirmatively pleads that no act or omission on its part or on the part of its employees proximately caused Plaintiff's alleged damages, if any.

7. To the extent that Plaintiff's cause of action falls outside the applicable statute of limitations, Defendant affirmatively pleads such statute of limitations.

8. Defendant affirmatively pleads it is not liable to the extent that Plaintiff has failed to mitigate her alleged damages, if any.

9. Defendant affirmatively pleads that on all occasions in question, its employees acted without malice and without intent to deprive Plaintiff of any legally protected rights.

10. Defendant affirmatively pleads that punitive and exemplary damages are not recoverable against a municipality under state law. Defendant affirmatively pleads that in the unlikely event Plaintiff can prove punitive and exemplary damages against Defendant, then Plaintiff's monetary recovery would be governed by the limits set forth by Texas Civil Practice and Remedies Code §41.001, *et. seq.*

III. OTHER DEFENSES

11. To the extent Plaintiff has failed to exhaust all administrative remedies, Defendant affirmatively pleads that Plaintiff has failed to meet the prerequisites and conditions precedent for filing this civil action.

IV. REQUESTS FOR DISCLOSURE

12. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose, within 30 days of service of this request, the information or material described in Rule 194.2.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant City of Dallas, Texas, prays that Plaintiff takes nothing by this suit, that all relief requested by Plaintiff be denied.

Respectfully submitted,

OFFICE OF THE CITY ATTORNEY
CITY OF DALLAS, TEXAS



KATHERINE J. WISE
Assistant City Attorney
Texas State Bar No. 24044581
JANICE S. MOSS
Assistant City Attorney
Texas State Bar No. 14586050
City Hall 7DN
1500 Marilla Street
Dallas, Texas 75201
Tel. (214) 671-9569
Fax (214) 670-0622

CERTIFICATE OF SERVICE

On February 12, 2007, a copy of the foregoing document was provided via facsimile to 972-247-9201 and by certified mail, return receipt requested, to the following:

Mr. William J. Dunleavy
8140 Walnut Hill Lane
One Glen Lakes, Suite 950
Dallas, Texas 75231



KATHERINE J. WISE

CAUSE NO. DC-06-09743-D

STORMY MAGIERA,

Plaintiff,

V.

CITY OF DALLAS, TEXAS,

Defendant.

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FILED
07 JUL 25 10 59 AM
IN THE DISTRICT COURT
GAIL JOHNS
DISTRICT CLERK
DALLAS, TEXAS
95th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**DEFENDANT CITY OF DALLAS' UNOPPOSED MOTION TO
AMEND THE COURT'S UNIFORM SCHEDULING ORDER AND
TO VACATE THE REQUIREMENT OF MEDIATION**

TO THE HONORABLE JUDGE JOHNSON:

COMES NOW, the City of Dallas, Texas, Defendant in the above entitled and numbered cause of action and files this Unopposed Motion to Amend the Court's Uniform Scheduling Order and to Vacate the Requirement of Mediation and would respectfully show the Court as follows:

1. The Court filed its Uniform Scheduling Order on January 9, 2007. At that time, the Court appointed Kathy Fragnoli of Burdin Mediation as mediator and required mediation to be completed by October 26, 2007.

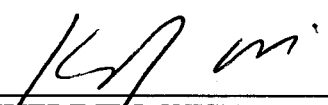
2. Out of courtesy, Defendant's counsel notified Plaintiff's counsel, Mr. William J. Dunleavy, that based on the nature of Defendant's claims and the discovery provided to date that the City would not be offering any financial settlement to Plaintiff. Mr. Dunleavy has stated that, based on the City's settlement position, he is unopposed to Defendant's Motion to amend the Court's Uniform Scheduling Order and to vacate the requirement of mediation.

3. Defendant would respectfully request the Court enter the attached Order modifying its Uniform Scheduling Order and vacating any requirement that the parties mediate this matter.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that the Court enter the attached Order amending its Uniform Scheduling Order and vacating the requirement of mediation.

Respectfully submitted,

OFFICE OF THE CITY ATTORNEY
CITY OF DALLAS, TEXAS



KATHERINE J. WISE
Assistant City Attorney
Texas State Bar No. 24044581
JANICE S. MOSS
Assistant City Attorney
Texas State Bar No. 14586050
City Hall 7DN
1500 Marilla Street
Dallas, Texas 75201
Tel. (214) 671-9569
Fax (214) 670-0622

CERTIFICATE OF CONFERENCE

I, the undersigned attorney, hereby certify to the Court that I have conferred with opposing counsel about the relief sought in this motion. Counsel for Plaintiff is unopposed to the relief sought.

Certified to on the 25th day of July, 2007


KATHERINE J. WISE

CERTIFICATE OF SERVICE

On July 25, 2007, a copy of the foregoing document was provided via certified mail, return receipt requested to the following:

Mr. William J. Dunleavy
1038 S. Elm Street
Carrollton, Texas 75006


KATHERINE J. WISE

MWA REPORTERS
6440 N. CENTRAL EXPRESSWAY
318 TURLEY LAW CENTER
DALLAS, TEXAS 75206
214-363-7471
FAX 214-363-7760

FILED
AUG -3 PM 3:29
JUDY FITZSIMMONS
DEPUTY

DATE: **July 30, 2007**

RE: **DC-06-09743-D**
MAGIERA VS. CITY OF DALLAS

Dear Mr. William Dunleavy,

In accordance with the Texas Rules of Civil Procedure/Federal Rules of Civil Procedure, I am forwarding to you in regard to the deposition of **Susan Katherine Lash** taken on **May 22, 2007**, the following:

_____ Original deposition was returned.
 x Original deposition was not returned to me.

Also, please be advised:

_____ Deposition was notarized.
 x Deposition was not notarized.
 x No changes and/or corrections were noted.
_____ A copy of the correction sheet is attached.

Attached also is the following:

 X Certificate Affidavit to be attached to your original or copy.

Please let me know if I may be of further assistance in this matter.

Yours truly,

Melissa Fisher
Office Manager

Enclosure

cc: District/County Clerk
Ms. Katherine Jane Wise

Oral Deposition - Susan Katherine Lash
May 22, 2007

CAUSE NO. DC-06-09743-D

STORMY L. MAGIERA,

IN THE DISTRICT COURT

Plaintiff,

v.

DALLAS COUNTY, TEXAS

CITY OF DALLAS, TEXAS,

Defendant.

95TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF SUSAN KATHERINE LASH

May 22, 2007

I, Marion Ward, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, SUSAN KATHERINE LASH, was
duly sworn and that the transcript of the deposition is
a true record of the testimony given by the witness;

MWA REPORTERS 214/363-7471

Oral Deposition - Susan Katherine Lash
May 22, 2007

1 That the deposition transcript was duly
2 submitted on 6/6/07 to the witness or the
3 attorney for the witness for examination, signature,
4 and return to me by 6/26/07.

5 That pursuant to information given to the
6 deposition officer at the time said testimony was
7 taken, the following includes all parties of record and
8 the amount of time used by each party at the time of
9 the deposition:

10
11
12 Mr. William J. Dunleavy (03h00m)
13 Attorney for Plaintiff
14 Ms. Katherine Jane Wise (00h00m)
15 Attorney for Defendant

16 *FOR PLAINTIFF:*

17 Mr. William J. Dunleavy
18 THE LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.
19 8140 Walnut Hill Lane
20 One Glen Lakes, Suite 950
Dallas, Texas 75234
(972)247-9200

21 *FOR DEFENDANT:*

22 Ms. Katherine Jane Wise
23 Assistant District Attorney, City of Dallas
1500 Marilla Street
24 City Hall
Dallas, Texas 75201
25 (214)671-9569

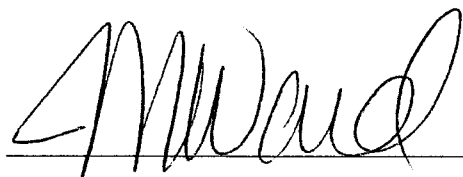
Oral Deposition - Susan Katherine Lash
May 22, 2007

1 That a copy of this certificate was served
2 on all parties shown herein on 6/6/07
3 and filed with the Clerk.

4 I further certify that I am neither counsel
5 for, related to, nor employed by any of the parties in
6 the action in which this proceeding was taken, and
7 further that I am not financially or otherwise
8 interested in the outcome of this action.

9 Further certification requirements pursuant
10 to Rule 203 of the Texas Code of Civil Procedure will
11 be complied with after they have occurred.

12 Certified to by me on this 6th day of
13 June, 2007.

14
15 
16

17 Marion Ward, CSR
18 Texas CSR 876, Firm No. 126
19 Expiration: 12/31/08
20 MWA Reporters
21 6440 North Central Expressway
22 Suite 318
23 Dallas, Texas 75206
24
25

Oral Deposition - Susan Katherine Lash
May 22, 2007

FURTHER CERTIFICATION UNDER TRCP RULE 203

The original deposition was ~~was not~~ returned
to the deposition officer on July 30, 2007.

If returned, the attached Changes and
Signature page(s) contain(s) any changes and the
reasons therefor.

If returned, the original deposition was
delivered to Mr. William J. Dunleavy, Custodial
Attorney.

\$ 745.00 is the deposition officer's charges
to the Plaintiff for preparing the original deposition
transcript and any copies of exhibits.

The deposition was delivered in accordance
with Rule 203.3, and a copy of this certificate, served
on all parties shown herein, was filed with the Clerk.

Certified to by me on this 30th day of

July, 2007.

M Ward

Marion Ward, CSR
Texas CSR 876, Firm No. 126
Expiration: 12/31/08
MWA Reporters
6440 North Central Expressway
Suite 318
Dallas, Texas 75206

MWA REPORTERS
6440 N. CENTRAL EXPRESSWAY
318 TURLEY LAW CENTER
DALLAS, TEXAS 75206
214-363-7471
FAX 214-363-7760

FILED
JUL 30 2007
FITZSIMMONS
DEPUTY

DATE: July 30, 2007

RE: DC-06-09743-D
MAGIERA VS. CITY OF DALLAS

Dear Mr. William Dunleavy,

In accordance with the Texas Rules of Civil Procedure/Federal Rules of Civil Procedure, I am forwarding to you in regard to the deposition of **Deborah Ann Branton** taken on **May 22, 2007**, the following:

____ Original deposition was returned.
 x Original deposition was not returned to me.

Also, please be advised:

____ Deposition was notarized.
 x Deposition was not notarized.
 x No changes and/or corrections were noted.
____ A copy of the correction sheet is attached.

Attached also is the following:

 X Certificate Affidavit to be attached to your original or copy.

Please let me know if I may be of further assistance in this matter.

Yours truly,

Melissa Fisher
Office Manager

Enclosure

cc: District/County Clerk
Ms. Katherine Jane Wise

Oral Deposition - Deborah Ann Branton
May 22, 2007

CAUSE NO. DC-06-09743-D

STORMY L. MAGIERA,

IN THE DISTRICT COURT

Plaintiff,

v.

DALLAS COUNTY, TEXAS

CITY OF DALLAS, TEXAS,

Defendant.

95TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF DEBORAH ANN BRANTON

May 22, 2007

I, Marion Ward, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, DEBORAH ANN BRANTON, was
duly sworn and that the transcript of the deposition is
a true record of the testimony given by the witness;

MWA REPORTERS 214/363-7471

Oral Deposition - Deborah Ann Branton
May 22, 2007

1 That the deposition transcript was duly
2 submitted on 6/6/07 to the witness or the
3 attorney for the witness for examination, signature,
4 and return to me by 6/26/07.

5 That pursuant to information given to the
6 deposition officer at the time said testimony was
7 taken, the following includes all parties of record and
8 the amount of time used by each party at the time of
9 the deposition:

10
11
12 Mr. William J. Dunleavy (01h10m)
13 Attorney for Plaintiff
14 Ms. Katherine Jane Wise (00h00m)
15 Attorney for Defendant

16 *FOR PLAINTIFF:*

17 Mr. William J. Dunleavy
18 THE LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.
19 8140 Walnut Hill Lane
20 One Glen Lakes, Suite 950
21 Dallas, Texas 75234
22 (972)247-9200

23 *FOR DEFENDANT:*

24 Ms. Katherine Jane Wise
25 Assistant District Attorney, City of Dallas
1500 Marilla Street
City Hall
Dallas, Texas 75201
(214)671-9569

Oral Deposition - Deborah Ann Branton
May 22, 2007

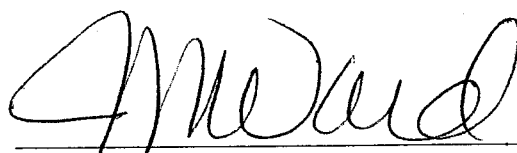
1 That a copy of this certificate was served
2 on all parties shown herein on 6/6/07
3 and filed with the Clerk.

4 I further certify that I am neither counsel
5 for, related to, nor employed by any of the parties in
6 the action in which this proceeding was taken, and
7 further that I am not financially or otherwise
8 interested in the outcome of this action.

9 Further certification requirements pursuant
10 to Rule 203 of the Texas Code of Civil Procedure will
11 be complied with after they have occurred.

12 Certified to by me on this 6th day of

13 June 2007.

14
15 
16

17 Marion Ward, CSR
18 Texas CSR 876, Firm No. 126
19 Expiration: 12/31/08
20 MWA Reporters
21 6440 North Central Expressway
22 Suite 318
23 Dallas, Texas 75206
24
25

Oral Deposition - Deborah Ann Branton
May 22, 2007

FURTHER CERTIFICATION UNDER TRCP RULE 203

The original deposition was was not returned
to the deposition officer on July 30, 2007.

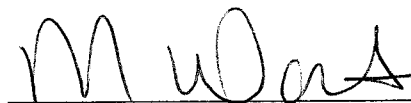
If returned, the attached Changes and
Signature page(s) contain(s) any changes and the
reasons therefor.

If returned, the original deposition was
delivered to Mr. William J. Dunleavy, Custodial
Attorney.

\$ 339.00 is the deposition officer's charges
to the Plaintiff for preparing the original deposition
transcript and any copies of exhibits.

The deposition was delivered in accordance
with Rule 203.3, and a copy of this certificate, served
on all parties shown herein, was filed with the Clerk.

Certified to by me on this 30th day of
July, 2007.



Marion Ward, CSR
Texas CSR 876, Firm No. 126
Expiration: 12/31/08
MWA Reporters
6440 North Central Expressway
Suite 318
Dallas, Texas 75206



95th DISTRICT COURT
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202-4631

August 29, 2007

Ms. Katherine Wise
City Hall 7DN
1500 Marilla St.
Dallas, TX 75201

Mr. William J. Dunleavy
1038 Elm Street
Carrollton, TX 75006

RE: Cause No. 06-09743-D
Stormy Magiera vs. The City of Dallas, Texas

NOTICE

The above-referenced case is hereby reset for **NON JURY TRIAL** on the 2- week trial docket beginning:
March 31, 2008 @ 8:30 a.m.

Trial announcements must be made in accordance with Rule 3.02, Local Rules of the Civil Court of Dallas County, Texas. Pursuant to Local Rule 3.04, please be advised that if this case is not reached as set, it may be carried to the following week.

When no announcement is made for Plaintiff, this case will be dismissed for want of prosecution in accordance with Texas Rules of Civil Procedure.

Except as provided by court order, completion of discovery, presentation of pretrial motions and other matters relating to preparation for trial are governed by the Texas Rules of Civil Procedure and the Local Rules.

FAILURE TO APPEAR AT THE TRIAL SETTING SHALL RESULT IN DISMISSAL OF THIS CASE FOR WANT OF PROSECUTION.

NO. DC-06-09743-D

ORIGINAL
2007 SEP 28 AM 9:30
CLERK OF DISTRICT COURT
DEPUTY CLERK

STORMY MAGIERA,
Plaintiff,

vs.

CITY OF DALLAS, TEXAS,

Defendant.

) IN THE DISTRICT COURT

) 95TH JUDICIAL DISTRICT

) DALLAS COUNTY, TEXAS

CERTIFICATION PURSUANT TO
RULE 203.1 & 203.2 T.R.C.P.
TO THE

REPORTER'S CERTIFICATION
DEPOSITION OF MICHAEL MAGIERA
August 13, 2007

I, Jeff L. Foster, Certified Shorthand
Reporter in and for the State of Texas, do hereby
certify to the following:

That the witness, MICHAEL MAGIERA, was
duly sworn by the officer and that the transcript of
the oral deposition is a true record of the testimony
given by the witness;

That the deposition transcript was
submitted on August 24, 2007, to the witness or to the
attorney for the witness for examination, signature and
return to me in 20 days pursuant to Rule 203.1(b) or
agreement;

That the amount of time used by each
party at the deposition is as follows:

Ms. Wise - 40 minutes

Mr. Dunleavy - 12 minutes

1 That pursuant to the information given to
2 the deposition officer at the time said testimony was
3 taken, the following includes counsel for all parties
4 of record:

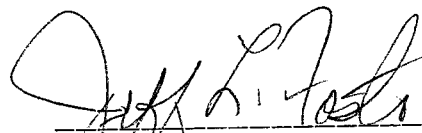
5 Mr. Dunleavy, Attorney for Plaintiff

6 Ms. Wise and Jeffers, Attorneys for Defendant

7 I further certify that I am neither
8 counsel for, related to nor employed by any of the
9 parties or attorneys in the action in which this
10 proceeding was taken, and further that I am not
11 financially or otherwise interested in the outcome of
12 the action.

13 Further certification requirements
14 pursuant to Rule 203 of TRCP will be certified to after
15 they have occurred.

16 Certified to by me this 24th day of
17 August, 2007.

18 

19 Jeff L. Foster, CSR 5434
20 Expiration Date: 12/31/2008
21 Firm Registration #209
22 5220 Renaissance Tower
23 1201 Elm Street
24 Dallas, Texas 75270
25 (214) 855-5300

FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/ ~~was~~ ~~not~~ returned to the deposition officer on 9-24-07;

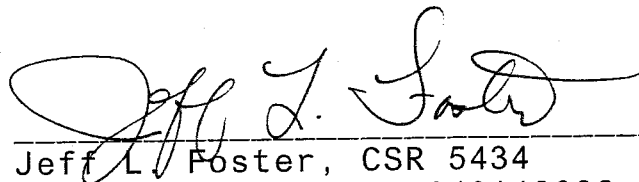
If returned, the attached Changes and Signature page contains any changes and the reasons therefore;

If returned, the original deposition was delivered to Ms. Katherine Wise, Custodial Attorney;

That \$ 376.25 is the deposition officer's charges to the Defendant for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein on 9-22-07 and filed with the Clerk.

Certified to by me this 27 day of Sept., 2007.



Jeff L. Foster, CSR 5434
Expiration Date: 12/31/2008
5220 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270
(214) 855-5300

CHANGES AND SIGNATURE

WITNESS NAME: MICHAEL MAGIERA

DATE OF DEPO: AUGUST 13, 2007

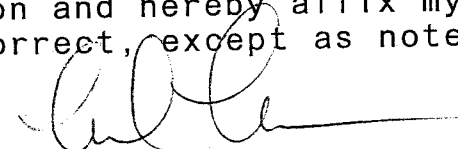
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CHANGES AND SIGNATURE (Cont'd)

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I, **MICHAEL MAGIERA**, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.



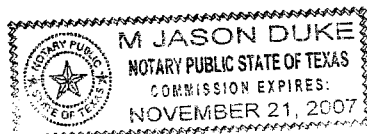
MICHAEL MAGIERA


THE STATE OF Texas)

COUNTY OF Collin)

Before me, M. Jason Duke, on this day personally appeared **MICHAEL MAGIERA**, known to me (or proved to me under oath or through Texas Driver License (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 19 day of September, 2007.




NOTARY PUBLIC IN AND FOR
THE STATE OF Texas

ORIGINAL

NO. DC-06-09743-0007 SEP 28

AM 9:37

1 STORMY MAGIERA,
2
3 Plaintiff,

4 vs.

5 CITY OF DALLAS, TEXAS,

6 Defendant.

) IN THE DISTRICT COURT

) *Melinda Thomas*

) 95TH JUDICIAL DISTRICT

) DALLAS COUNTY, TEXAS

7
8 REPORTER'S CERTIFICATION
9 DEPOSITION OF STORMY MAGIERA
10 August 13, 2007

11 CERTIFICATION PURSUANT TO
12 RULE 203.1 & 203.2 T.R.C.P.
13 TO THE

14 I, Jeff L. Foster, Certified Shorthand
15 Reporter in and for the State of Texas, do hereby
16 certify to the following:

17 That the witness, **STORMY MAGIERA**, was
18 duly sworn by the officer and that the transcript of
19 the oral deposition is a true record of the testimony
20 given by the witness;

21 That the deposition transcript was
22 submitted on August 27, 2007, to the witness or to the
23 attorney for the witness for examination, signature and
24 return to me in 20 days pursuant to Rule 203.1(b) or
25 agreement;

That the amount of time used by each
party at the deposition is as follows:

Ms. Wise - 4 hours, 39 minutes

Mr. Dunleavy - 3 minutes

1 That pursuant to the information given to
2 the deposition officer at the time said testimony was
3 taken, the following includes counsel for all parties
4 of record:

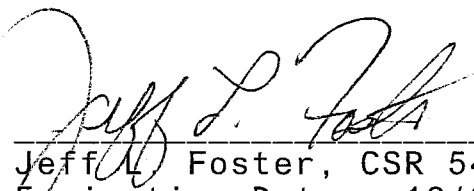
5 Mr. Dunleavy, Attorney for Plaintiff

6 Ms. Wise and Jeffers, Attorneys for Defendant

7 I further certify that I am neither
8 counsel for, related to nor employed by any of the
9 parties or attorneys in the action in which this
10 proceeding was taken, and further that I am not
11 financially or otherwise interested in the outcome of
12 the action.

13 Further certification requirements
14 pursuant to Rule 203 of TRCP will be certified to after
15 they have occurred.

16 Certified to by me this 24th day of
17 August, 2007.

18 

19 _____
20 Jeff L. Foster, CSR 5434
21 Expiration Date: 12/31/2008
22 Firm Registration #209
23 5220 Renaissance Tower
24 1201 Elm Street
25 Dallas, Texas 75270
(214) 855-5300

FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/ [REDACTED]
returned to the deposition officer on 9-21-07;

If returned, the attached Changes and Signature page contains any changes and the reasons therefore;

If returned, the original deposition was delivered to Ms. Katherine Wise, Custodial Attorney;

That \$ 1,347.25 is the deposition officer's charges to the Defendant for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein on 9-28-07 and filed with the Clerk.

Certified to by me this 27 day of
Sept, 2007.

Jeff L. Foster, CSR 5434

Jeff L. Foster, CSR 5434
Expiration Date: 12/31/2008
5220 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270
(214) 855-5300

CHANGES AND SIGNATURE

WITNESS NAME: STORMY MAGIERA

DATE OF DEPO: AUGUST 13, 2007

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CHANGES AND SIGNATURE (Cont'd)

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I, **STORMY MAGIERA**, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

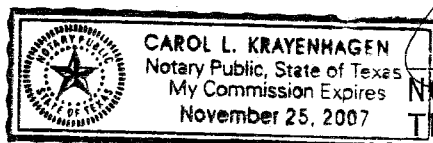
Stormy Magiera
STORMY MAGIERA

THE STATE OF Texas)

COUNTY OF Dallas)

Before me, Carol Krayenhagen, on this day personally appeared **STORMY MAGIERA**, known to me (or proved to me under oath or through (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 19th day of September, 2007.



Carol Krayenhagen
NOTARY PUBLIC IN AND FOR
 THE STATE OF Texas

MWA REPORTERS
6440 N CENTRAL EXPRESSWAY
318 TURLEY LAW CENTER
DALLAS TEXAS 75206
214-363-7471
214-363-7760 FAX

FILED
2007 OCT 17 AM 8:37
GALVESTON
DISTRICT CLERK
DALLAS TEXAS
DEPT. 1

DATE: September 20, 2007

RE: DC-06-09743-D
MAGIERA VS. CITY OF DALLAS

Dear Mr. William Dunleavy,

In accordance with the Texas Rules of Civil Procedure/Federal Rules of Civil Procedure, I am forwarding to you in regard to the deposition of **Lt. Paul So Thai** taken on **August 17, 2007**, the following:

☒ Original deposition was returned.
☐ Original deposition was not returned to me.

Also please be advised:

☒ Deposition was notarized.
☐ Deposition was not notarized.
☐ No Changes and/or corrections were noted.
☒ Copy of the correction sheet is attached.

Attached also is the following:

☒ Certificate Affidavit to be attached to your original or copy.

Please let me know if I may be of further assistance in this matter.

Yours truly,

Melissa Fisher
Office Manager

Enclosure

cc: District/County Clerk
Ms Katherine Jane Wise

Oral Deposition - Lt. Paul So Thai
August 17, 2007

CHANGES AND SIGNATURE

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Oral Deposition - Lt. Paul So Thai
August 17, 2007

I, LT. PAUL SO THAI, having read the foregoing deposition and hereby affix my signature that same is true and correct, except, as noted above.

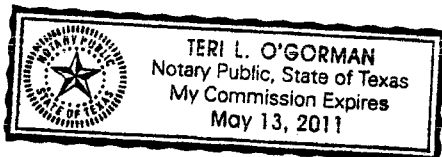
LT. PAUL SO THAI

STATE OF TEXAS

COUNTY OF DALLAS)

Before me, Teri L. O'Gorman, on this day personally appeared LT. PAUL SO THAI, known to me or proved to me on the oath of ~~XXXXXXXXXXXXXXXXXXXX on through XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX (description of identification)~~
~~XXXXXXXXXXXXXXXXXXXX~~ to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/~~she~~ executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office on
this 31st day of August, 2007.



Derik L. O'Gorman
NOTARY PUBLIC IN AND FOR
THE STATE OF **TEXAS**

My Commission Expires: 05-13-11

Oral Deposition - Lt. Paul So Thai
August 17, 2007

CAUSE NO. DC-06-09743-D

STORMY L. MAGIERA,) IN THE DISTRICT COURT
)
)
Plaintiff,)
)
)
v.) DALLAS COUNTY, TEXAS
)
)
CITY OF DALLAS, TEXAS,)
)
)
Defendant.) 95TH JUDICIAL DISTRICT

FILED
2007 OCT 17 AM 8:36
CLERK OF DISTRICT COURT
DALLAS COUNTY TEXAS
Melinda Thomas

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF LT. PAUL SO THAI

August 17, 2007

I, Marion Ward, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, LT. PAUL SO THAI, was duly
sworn and that the transcript of the deposition is a
true record of the testimony given by the witness;

MWA REPORTERS 214/363-7471

Oral Deposition - Lt. Paul So Thai
August 17, 2007

1 That the deposition transcript was duly
2 submitted on 8/24/07 to the witness or the
3 attorney for the witness for examination, signature,
4 and return to me by 9/13/07.

5 That pursuant to information given to the
6 deposition officer at the time said testimony was
7 taken, the following includes all parties of record and
8 the amount of time used by each party at the time of
9 the deposition:

10
11 Mr. William J. Dunleavy (02h40m)
12 Attorney for Plaintiff
13 Ms. Katherine Jane Wise (00h00m)
14 Ms. Rosalind Jeffers (00h00m)
15 Attorneys for Defendant

16 *FOR PLAINTIFF:*

17 Mr. William J. Dunleavy
18 THE LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.
19 8140 Walnut Hill Lane
20 One Glen Lakes, Suite 950
21 Dallas, Texas 75234
22 (972)247-9200

23 *FOR DEFENDANT:*

24 Ms. Katherine Jane Wise
25 Assistant District Attorney, City of Dallas
Ms. Rosalind Jeffers
Attorney, City of Dallas
1500 Marilla Street
City Hall
Dallas, Texas 75201
(214)671-9569

Oral Deposition - Lt. Paul So Thai
August 17, 2007

1 That a copy of this certificate was served
2 on all parties shown herein on 8/24/07
3 and filed with the Clerk.

4 I further certify that I am neither counsel
5 for, related to, nor employed by any of the parties in
6 the action in which this proceeding was taken, and
7 further that I am not financially or otherwise
8 interested in the outcome of this action.

9 Further certification requirements pursuant
10 to Rule 203 of the Texas Code of Civil Procedure will
11 be complied with after they have occurred.

12 Certified to by me on this 24th day of
13 August, 2007.

14
15
16 

17 Marion Ward, CSR
18 Texas CSR 876, Firm No. 126
19 Expiration: 12/31/08
20 MWA Reporters
21 6440 North Central Expressway
22 Suite 318
23 Dallas, Texas 75206
24
25

Oral Deposition - Lt. Paul So Thai
August 17, 2007

FURTHER CERTIFICATION UNDER TRCP RULE 203

The original deposition (was) was not returned
to the deposition officer on 9-5-07.

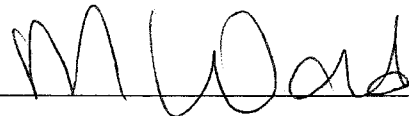
If returned, the attached Changes and
Signature page(s) contain(s) any changes and the
reasons therefor.

If returned, the original deposition was
delivered to Mr. William J. Dunleavy, Custodial
Attorney.

\$ 648.00 is the deposition officer's charges
to the Plaintiff for preparing the original deposition
transcript and any copies of exhibits.

The deposition was delivered in accordance
with Rule 203.3, and a copy of this certificate, served
on all parties shown herein, was filed with the Clerk.

Certified to by me on this 20th day of
September, 2007.



Marion Ward, CSR
Texas CSR 876, Firm No. 126
Expiration: 12/31/08
MWA Reporters
6440 North Central Expressway
Suite 318
Dallas, Texas 75206

404D

80276

CAUSE NO. DC06-9743-D

Stormy Magiera vs. City of Dallas
Texas

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IN THE DISTRICT COURT

OF DALLAS COUNTY, TEXAS

95th JUDICIAL DISTRICT

SETTLEMENT WEEK
ORDER OF REFERRAL TO MEDIATION

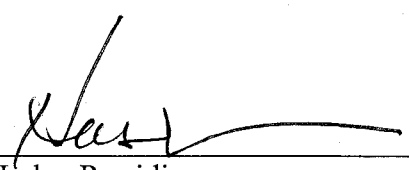
This case is appropriate for mediation pursuant to Tex. Civ. Prac. & Rem. Code, Sec. 154.0001, et seq. As part of this Court's participation in Settlement Week scheduled December 10-14, 2007, Raquel Rodriguez [, 111 E Polk Street, Richardson, TX. 75081, phone 214 505-7363, fax 972 850-1247, email: raquelrodr@aol.com] is appointed as Mediator. The parties and the Mediator shall agree upon a mediation date, time, and location during Settlement Week. If no agreement is reached, the Mediator shall set the mediation.

Mediation is a mandatory but non-binding settlement conference, conducted with the assistance of the Mediator. Mediation is private, confidential, and privileged from process and discovery. After mediation, the Mediator will notify the Court only as to whether the case did or did not settle and whether further ADR procedures should be pursued. The Mediator shall not be a witness, nor may the Mediator's records be subpoenaed or used as evidence. No subpoenas, citations, writs, or other process shall be served at or near the location of any mediation session.

Named parties and all persons with necessary authority to settle the dispute shall be present during the entire mediation process.

Referral to mediation is not a substitute for trial and the case will proceed to trial if not settled.

SIGNED November 24, 2007.



Judge Presiding

cc: Plaintiffs attorney: William J. Dunleavy, phone: 972-247-9201, fax: 972-247-9201
Defense attorney: Katherine Wise, phone: 214-671-9569, fax: 214-670-0622

CAUSE NO. DC-06-09743-D

STORMY MAGIERA,

Plaintiff,

V.

CITY OF DALLAS, TEXAS,

Defendant.

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IN THE DISTRICT COURT

95th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

DEFENDANT CITY OF DALLAS' UNOPPOSED MOTION FOR CONTINUANCE
OF THE TRIAL DATE

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to Rule 251 of the Texas Rules of Civil Procedure and Local Rule 3.01, Defendant City of Dallas (hereinafter "Defendant"), files this unopposed motion to continue the trial setting and shows the Court the following:

FILED
08 JAN 1 PM 2:28
GARZA-FITZSIMMONS
DISTRICT CLERK
DALLAS CO. TEXAS
DEPUTY

1. This cause of action was originally filed on September 15, 2006.
2. The trial date in this cause of action is currently scheduled for March 31, 2008.
3. The attorney of record for the Defendant, Katherine J. Wise, is no longer representing the Defendant, as she has resigned her employment with the City of Dallas. The lead attorney for the Defendant is now Jennifer Carter Huggard. Ms. Huggard was only recently hired by the City of Dallas to take over this case. Ms. Huggard needs additional time to review the documents and become familiar with the issues of the case.

4. Also, additional discovery is necessary to prepare this case properly for trial. Counsel for plaintiff has requested additional depositions and has been accommodating to the Defendant during the transition to new counsel.
5. Finally, Ms. Huggard is lead counsel in a case with a conflicting trial setting, in a case styled *Jay Sandon Cooper v. City of Dallas*, Cause No. 3:04-CV-1663-M. The case is specially set for trial on March 24, 2008, and is the number one case on the court's civil docket in the U.S. District Court for the Northern District of Texas, Dallas Division. Because of the age of the case, we anticipate the case will go to trial at that time. Due to the complexity of the case, it is likely that the trial will be quite lengthy.
6. For these reasons, it has become necessary for the Defendant to file this unopposed motion for continuance of the trial date to give counsel an opportunity to adequately prepare for trial and to eliminate the conflicting trial settings. The City proposes a trial date no sooner than July 2008.
7. This motion is not made for the purposes of delay, but so that justice may be done.

WHEREFORE, PREMISES CONSIDERED, the City of Dallas respectfully moves the Court to grant a continuance of the trial setting.

Respectfully submitted,

THOMAS P. PERKINS, JR.
CITY ATTORNEY OF
THE CITY OF DALLAS

JENNIFER CARTER HUGGARD

Assistant City Attorney
Texas State Bar No. 00792998

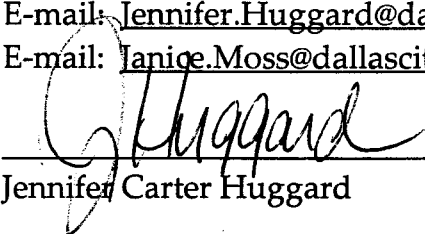
JANICE MOSS

Assistant City Attorney
Texas State Bar No. 14586050

City Hall 7DN
1500 Marilla Street
Dallas, Texas 75201
Tel. (214) 671-5622
Fax (214) 670-0622

E-mail: Jennifer.Huggard@dallascityhall.com

E-mail: Janice.Moss@dallascityhall.com



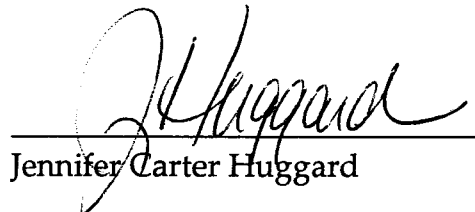
Jennifer Carter Huggard

RYAN EVANS

Assistant City Manager
On behalf of the City of Dallas

CERTIFICATE OF CONFERENCE

Jennifer Huggard, counsel for Defendant, spoke with Mr. William Dunleavy, counsel for Plaintiff, via telephone regarding this motion. Plaintiff is not opposed to the relief sought.



Jennifer Carter Huggard

Certificate of Service

This will certify that a true and correct copy of the foregoing instrument was served in accordance with the Texas Rules of Civil Procedure on the 11th day of January, 2008, on:

Mr. William Dunleavy
8140 Walnut Hill Lane
One Glen Lakes
Suite 950
Dallas, Texas 75231




Jennifer Carter Huggard

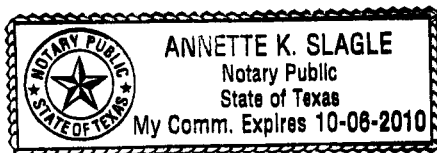
VERIFICATION

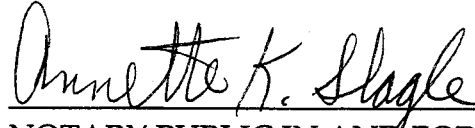
STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the Undersigned Notary Public, on this day personally appeared Jennifer Carter Huggard, who being by me duly sworn upon her oath and said that she is the attorney for Defendant City of Dallas, that she has read the above Defendant City of Dallas' Unopposed Motion for Continuance of the Trial Date and that every statement contained therein is based upon her personal knowledge and is true and correct.


JENNIFER CARTER HUGGARD

SUBSCRIBED AND SWORN TO BEFORE ME, on this the 11th day of January, 2008, to certify which witness my hand and official seal.




NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

CAUSE NO. DC-06-09743-D

STORMY MAGIERA,

Plaintiff,

V.

CITY OF DALLAS, TEXAS,

Defendant.

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IN THE DISTRICT COURT

95th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**ORDER ON DEFENDANT'S UNOPPOSED MOTION FOR A CONTINUANCE
OF THE TRIAL SETTING**

Before the Court is Defendant City of Dallas' Unopposed Motion for Continuance of the Trial Setting. After reviewing the Motion, the Court is of the opinion that Defendant's Motion is well taken and should be granted. Therefore the Court grants Defendant's Motion for a Continuance of the Trial Setting. The case is now set for a **non-jury trial** on _____ at 9:00 a.m. (the "Initial Trial Setting").

DISTRICT JUDGE PRESIDING

CAUSE NO. DC-06-09743-D

STORMY MAGIERA,

Plaintiff,

v.

CITY OF DALLAS, TEXAS,

Defendant.

§
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IN THE DISTRICT COURT

95th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**ORDER ON DEFENDANT'S UNOPPOSED MOTION FOR A CONTINUANCE
OF THE TRIAL SETTING**

Before the Court is Defendant City of Dallas' Unopposed Motion for Continuance of the Trial Setting. After reviewing the Motion, the Court is of the opinion that Defendant's Motion is well taken and should be granted. Therefore the Court grants Defendant's Motion for a Continuance of the Trial Setting. The case is now set for a non-jury trial on _____ at 9:00 a.m. (the "Initial Trial Setting").

DISTRICT JUDGE PRESIDING

APPROVED AS TO FORM:


William J. Dunleavy, counsel for Plaintiff

CAUSE NO. DC-06-09743-D

STORMY MAGIERA,

Plaintiff,

V.

CITY OF DALLAS, TEXAS,

Defendant.

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IN THE DISTRICT COURT

95th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**ORDER ON DEFENDANT'S UNOPPOSED MOTION FOR A CONTINUANCE
OF THE TRIAL SETTING**

Before the Court is Defendant City of Dallas' Unopposed Motion for Continuance of the Trial Setting. After reviewing the Motion, the Court is of the opinion that Defendant's Motion is well taken and should be granted. Therefore the Court grants Defendant's Motion for a Continuance of the Trial Setting. The case is now set for a non-jury trial on the Court's 2 week docket ^{8:30} at 9:00 a.m. (the "Initial Trial Setting"). ^{beginning July 7, 2008}

Karen GreJohnson
DISTRICT JUDGE PRESIDING

** Failure to appear at the trial setting shall result
in dismissal of this case for want of prosecution*

**Unless otherwise agreed or objections filed within
30 days, this new setting shall replace the "Initial
Trial Setting" for purposes of calculating deadlines.*

JAN. 2. 2008 5:27PM

NO. 761 P. 7

CAUSE NO. DC-06-09743-D

STORMY MAGIERA,

Plaintiff,

v.

CITY OF DALLAS, TEXAS,

Defendant.

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IN THE DISTRICT COURT

95th JUDICIAL DISTRICT

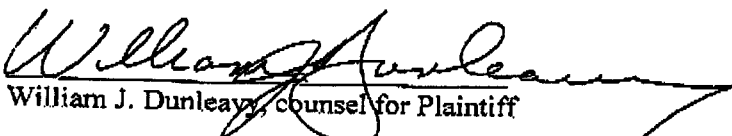
DALLAS COUNTY, TEXAS

**ORDER ON DEFENDANT'S UNOPPOSED MOTION FOR A CONTINUANCE
OF THE TRIAL SETTING**

Before the Court is Defendant City of Dallas' Unopposed Motion for Continuance of the Trial Setting. After reviewing the Motion, the Court is of the opinion that Defendant's Motion is well taken and should be granted. Therefore the Court grants Defendant's Motion for a Continuance of the Trial Setting. The case is now set for a non-jury trial on _____ at 9:00 a.m. (the "Initial Trial Setting").

DISTRICT JUDGE PRESIDING

APPROVED AS TO FORM:


William J. Dunleavy, counsel for Plaintiff

MWA REPORTERS
6440 N. CENTRAL EXPRESSWAY
318 TURLEY LAW CENTER
DALLAS, TEXAS 75206
214-363-7471
FAX 214-363-7760

FILED
08 JAN 17 AM 1:26

GARY FITZSIMMONS
DISTRICT CLERK
DALLAS CO., TEXAS

mc **DEPUTY**

DATE: January 9, 2008

RE: DC-06-09743-D
MAGIERA VS. DALLAS

Dear Mr. William Dunleavy,

In accordance with the Texas Rules of Civil Procedure/Federal Rules of Civil Procedure, I am forwarding to you in regard to the deposition of **Anya Ellen Murphy** taken on **November 12, 2007**, the following:

☐ Original deposition was returned.
☒ Original deposition was not returned to me.

Also, please be advised:

☐ Deposition was notarized.
☒ Deposition was not notarized.
☒ No changes and/or corrections were noted.
☐ A copy of the correction sheet is attached.

Attached also is the following:

☒ Certificate Affidavit to be attached to your original or copy.

Please let me know if I may be of further assistance in this matter.

Yours truly,

Melissa Fisher
Office Manager

Enclosure

cc: District/County Clerk
Ms. Katherine Wise

Oral Deposition - Anya Ellen Murphy
November 12, 2007

FILED

CAUSE NO. DC-06-09743-D 08 JAN 18 AM 1:26

| | | |
|------------------------|---|------------------------|
| STORMY L. MAGIERA, |) | IN THE DISTRICT COURT |
| |) | DISTRICT CLERK |
| |) | DALLAS CO., TEXAS |
| Plaintiff, |) | <i>Deputy</i> DEPUTY |
| |) | |
| v. |) | DALLAS COUNTY, TEXAS |
| |) | |
| CITY OF DALLAS, TEXAS, |) | |
| |) | |
| Defendant. |) | 95TH JUDICIAL DISTRICT |

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF ANYA ELLEN MURPHY

November 12, 2007

I, Marion Ward, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, ANYA ELLEN MURPHY, was
duly sworn and that the transcript of the deposition is
a true record of the testimony given by the witness;

MWA REPORTERS 214/363-7471

Oral Deposition - Anya Ellen Murphy
November 12, 2007

1 That the deposition transcript was duly
2 submitted on 11/20/07 to the witness or the
3 attorney for the witness for examination, signature,
4 and return to me by 12/12/07.

5 That pursuant to information given to the
6 deposition officer at the time said testimony was
7 taken, the following includes all parties of record and
8 the amount of time used by each party at the time of
9 the deposition:

10
11
12 Mr. William J. Dunleavy (00h40m)
13 Attorney for Plaintiff
14 Ms. Katherine Jane Wise (00h00m)
15 Attorney for Defendant

16 *FOR PLAINTIFF:*

17 Mr. William J. Dunleavy
18 THE LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.
19 8140 Walnut Hill Lane
20 One Glen Lakes, Suite 950
21 Dallas, Texas 75231
22 (972)247-9200

23 *FOR DEFENDANT:*

24 Ms. Katherine Jane Wise
25 Assistant District Attorney, City of Dallas
1500 Marilla Street
City Hall
Dallas, Texas 75201
(214)671-9569

Oral Deposition - Anya Ellen Murphy
November 12, 2007

1 That a copy of this certificate was served
2 on all parties shown herein on 11/20/07
3 and filed with the Clerk.

4 I further certify that I am neither counsel
5 for, related to, nor employed by any of the parties in
6 the action in which this proceeding was taken, and
7 further that I am not financially or otherwise
8 interested in the outcome of this action.

9 Further certification requirements pursuant
10 to Rule 203 of the Texas Code of Civil Procedure will
11 be complied with after they have occurred.

12 Certified to by me on this 20th day of
13 November, 2007

14
15
16 

17 Marion Ward, CSR
18 Texas CSR 876, Firm No. 126
19 Expiration: 12/31/08
20 MWA Reporters
21 6440 North Central Expressway
22 Suite 318
23 Dallas, Texas 75206
24
25

Oral Deposition - Anya Ellen Murphy
November 12, 2007

FURTHER CERTIFICATION UNDER TRCP RULE 203

The original deposition was was not returned
to the deposition officer on 12-21-07.

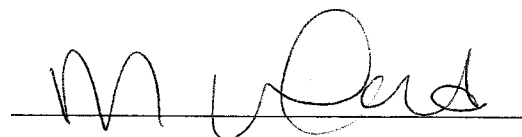
If returned, the attached Changes and
Signature page(s) contain(s) any changes and the
reasons therefor.

If returned, the original deposition was
delivered to Mr. William J. Dunleavy, Custodial
Attorney.

\$ 285.00 is the deposition officer's charges
to the Plaintiff for preparing the original deposition
transcript and any copies of exhibits.

The deposition was delivered in accordance
with Rule 203.3, and a copy of this certificate, served
on all parties shown herein, was filed with the Clerk.

Certified to by me on this 21st day of
December, 2007.



Marion Ward, CSR
Texas CSR 876, Firm No. 126
Expiration: 12/31/08
MWA Reporters
6440 North Central Expressway
Suite 318
Dallas, Texas 75206

MWA REPORTERS 214/363-7471

MWA REPORTERS
6440 N. CENTRAL EXPRESSWAY
318 TURLEY LAW CENTER
DALLAS, TEXAS 75206
214-363-7471
FAX 214-363-7760

FILED

08 JAN 17 AM 1:26

GARY FITZSIMMONS
DISTRICT CLERK
DALLAS CO., TEXAS

DEPUTY

DATE: January 9, 2008

RE: DC-06-09743-D
MAGIERA VS. DALLAS

Dear Mr. William Dunleavy,

In accordance with the Texas Rules of Civil Procedure/Federal Rules of Civil Procedure, I am forwarding to you in regard to the deposition of **Robert Rolla McCall, Jr.** taken on **November 8, 2007**, the following:

☐ Original deposition was returned.
☒ Original deposition was not returned to me.

Also, please be advised:

☐ Deposition was notarized.
☒ Deposition was not notarized.
☒ No changes and/or corrections were noted.
☐ A copy of the correction sheet is attached.

Attached also is the following:

☒ Certificate Affidavit to be attached to your original or copy.

Please let me know if I may be of further assistance in this matter.

Yours truly,

Melissa Fisher
Office Manager

Enclosure

cc: District/County Clerk
Ms. Katherine Wise

Oral Deposition - Robert Rolla McCall, Jr.
November 8, 2007

CAUSE NO. DC-06-09743-1

STORMY L. MAGIERA,

IN THE DISTRICT COURT

Plaintiff,

v.

DALLAS COUNTY, TEXAS

CITY OF DALLAS, TEXAS,

Defendant.

95TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF ROBERT ROLLA McCALL, JR.

November 8, 2007

I, Marion Ward, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, ROBERT ROLLA McCALL, JR.,
was duly sworn and that the transcript of the
deposition is a true record of the testimony given by
the witness;

MWA REPORTERS 214/363-7471

Oral Deposition - Robert Rolla McCall, Jr.
November 8, 2007

1 That the deposition transcript was duly
2 submitted on 11/20/07 to the witness or the
3 attorney for the witness for examination, signature,
4 and return to me by 12/12/07.

5 That pursuant to information given to the
6 deposition officer at the time said testimony was
7 taken, the following includes all parties of record and
8 the amount of time used by each party at the time of
9 the deposition:

10
11
12 Mr. William J. Dunleavy (01h05m)
13 Attorney for Plaintiff
14 Ms. Katherine Jane Wise (00h00m)
15 Attorney for Defendant

16 *FOR PLAINTIFF:*

17 Mr. William J. Dunleavy
18 THE LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.
19 8140 Walnut Hill Lane
20 One Glen Lakes, Suite 950
Dallas, Texas 75231
(972)247-9200

21 *FOR DEFENDANT:*

22 Ms. Katherine Jane Wise
23 Assistant District Attorney, City of Dallas
24 1500 Marilla Street
25 City Hall
Dallas, Texas 75201
(214)671-9569

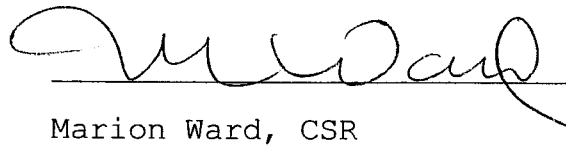
Oral Deposition - Robert Rolla McCall, Jr.
November 8, 2007

1 That a copy of this certificate was served
2 on all parties shown herein on 11/20/07
3 and filed with the Clerk.

4 I further certify that I am neither counsel
5 for, related to, nor employed by any of the parties in
6 the action in which this proceeding was taken, and
7 further that I am not financially or otherwise
8 interested in the outcome of this action.

9 Further certification requirements pursuant
10 to Rule 203 of the Texas Code of Civil Procedure will
11 be complied with after they have occurred.

12 Certified to by me on this 20th day of
13 November, 2007.

14
15
16 

17 Marion Ward, CSR
18 Texas CSR 876, Firm No. 126
19 Expiration: 12/31/08
20 MWA Reporters
21 6440 North Central Expressway
22 Suite 318
23 Dallas, Texas 75206
24
25

Oral Deposition - Robert Rolla McCall, Jr.
November 8, 2007

FURTHER CERTIFICATION UNDER TRCP RULE 203

The original deposition was/was not returned
to the deposition officer on 12-21-07.

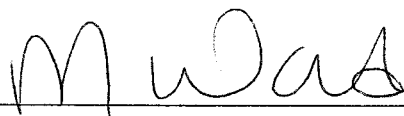
If returned, the attached Changes and
Signature page(s) contain(s) any changes and the
reasons therefor.

If returned, the original deposition was
delivered to Mr. William J. Dunleavy, Custodial
Attorney.

\$352.50 is the deposition officer's charges
to the Plaintiff for preparing the original deposition
transcript and any copies of exhibits.

The deposition was delivered in accordance
with Rule 203.3, and a copy of this certificate, served
on all parties shown herein, was filed with the Clerk.

Certified to by me on this 21st day of
December, 2007.


Marion Ward, CSR
Texas CSR 876, Firm No. 126
Expiration: 12/31/08
MWA Reporters
6440 North Central Expressway
Suite 318
Dallas, Texas 75206

MWA REPORTERS
6440 N. CENTRAL EXPRESSWAY
318 TURLEY LAW CENTER
DALLAS, TEXAS 75206
214-363-7471
FAX 214-363-7760

FILED
08 JAN 17 AM 1:26
GARY FITZSIMMONS
DISTRICT CLERK
DALLAS CO., TEXAS
DEPUTY

DATE: January 9, 2008

RE: DC-06-09743-D
MAGIERA VS. DALLAS

Dear Mr. William Dunleavy,

In accordance with the Texas Rules of Civil Procedure/Federal Rules of Civil Procedure, I am forwarding to you in regard to the deposition of **Deborah Kay White** taken on **November 28, 2007**, the following:

☐ Original deposition was returned.
☒ Original deposition was not returned to me.

Also, please be advised:

☐ Deposition was notarized.
☒ Deposition was not notarized.
☒ No changes and/or corrections were noted.
☐ A copy of the correction sheet is attached.

Attached also is the following:

☒ Certificate Affidavit to be attached to your original or copy.

Please let me know if I may be of further assistance in this matter.

Yours truly,

Melissa Fisher
Office Manager

Enclosure

cc: District/County Clerk
Ms. Katherine Wise

Oral Deposition - Deborah Kay White
November 28, 2007

FILED

CAUSE NO. DC-06-09743-D

08 JAN 17 AM 1:26

STORMY L. MAGIERA,

IN THE DISTRICT COURT

Plaintiff,

v.

DALLAS COUNTY, TEXAS

CITY OF DALLAS, TEXAS,

Defendant.

95TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF DEBORAH KAY WHITE

November 28, 2007

I, Marion Ward, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, DEBORAH KAY WHITE, was
duly sworn and that the transcript of the deposition is
a true record of the testimony given by the witness;

MWA REPORTERS 214/363-7471

Oral Deposition - Deborah Kay White
November 28, 2007

1 That the deposition transcript was duly
2 submitted on 12/5/07 to the witness or the
3 attorney for the witness for examination, signature,
4 and return to me by 12/26/07.

5 That pursuant to information given to the
6 deposition officer at the time said testimony was
7 taken, the following includes all parties of record and
8 the amount of time used by each party at the time of
9 the deposition:

10
11
12 Mr. William J. Dunleavy (01h05m)
13 Attorney for Plaintiff
14 Ms. Katherine Jane Wise (00h00m)
15 Attorney for Defendant

16 *FOR PLAINTIFF:*

17 Mr. William J. Dunleavy
18 THE LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.
19 8140 Walnut Hill Lane
20 One Glen Lakes, Suite 950
21 Dallas, Texas 75231
(972) 247-9200

22 *FOR DEFENDANT:*

23 Ms. Katherine Jane Wise
24 Assistant District Attorney, City of Dallas
25 1500 Marilla Street
City Hall
Dallas, Texas 75201
(214) 671-9569


Oral Deposition - Deborah Kay White
November 28, 2007

1 That a copy of this certificate was served
2 on all parties shown herein on 12/5/07
3 and filed with the Clerk.

4 I further certify that I am neither counsel
5 for, related to, nor employed by any of the parties in
6 the action in which this proceeding was taken, and
7 further that I am not financially or otherwise
8 interested in the outcome of this action.

9 Further certification requirements pursuant
10 to Rule 203 of the Texas Code of Civil Procedure will
11 be complied with after they have occurred.

12 Certified to by me on this 5th day of
13 December, 2007.

14
15 
16

17 Marion Ward, CSR
18 Texas CSR 876, Firm No. 126
19 Expiration: 12/31/08
20 MWA Reporters
21 6440 North Central Expressway
22 Suite 318
23 Dallas, Texas 75206
24
25

Oral Deposition - Deborah Kay White
November 28, 2007

FURTHER CERTIFICATION UNDER TRCP RULE 203

The original deposition was/~~was not~~ returned
to the deposition officer on 1-9-08.

If returned, the attached Changes and
Signature page(s) contain(s) any changes and the
reasons therefor.

If returned, the original deposition was
delivered to Mr. William J. Dunleavy, Custodial
Attorney.

\$ 352.50 is the deposition officer's charges
to the Plaintiff for preparing the original deposition
transcript and any copies of exhibits.

The deposition was delivered in accordance
with Rule 203.3, and a copy of this certificate, served
on all parties shown herein, was filed with the Clerk.

Certified to by me on this 9th day of
January, 2008.

Marion Ward
Marion Ward, CSR
Texas CSR 876, Firm No. 126
Expiration: 12/31/08
MWA Reporters
6440 North Central Expressway
Suite 318
Dallas, Texas 75206

MWA REPORTERS
6440 N. CENTRAL EXPRESSWAY
318 TURLEY LAW CENTER
DALLAS, TEXAS 75206
214-363-7471
FAX 214-363-7760

FILED

08 JAN 17 AM 1:26

GARY FITZSIMMONS
DISTRICT CLERK
DALLAS CO., TEXAS

MC DEPUTY

DATE: **January 9, 2008**

RE: DC-06-09743-D
MAGIERA VS. DALLAS

Dear Mr. William Dunleavy,

In accordance with the Texas Rules of Civil Procedure/Federal Rules of Civil Procedure, I am forwarding to you in regard to the deposition of **Randy Sundquist** taken on **November 28, 2007**, the following:

☐ Original deposition was returned.
☒ Original deposition was not returned to me.

Also, please be advised:

☐ Deposition was notarized.
☒ Deposition was not notarized.
☒ No changes and/or corrections were noted.
☐ A copy of the correction sheet is attached.

Attached also is the following:

☒ Certificate Affidavit to be attached to your original or copy.

Please let me know if I may be of further assistance in this matter.

Yours truly,

Melissa Fisher
Office Manager

Enclosure

cc: District/County Clerk
Ms. Katherine Wise

Oral Deposition - Randy Sundquist
November 28, 2007

FILED

CAUSE NO. DC-06-09743-D

08 JAN 17 AM 1:26

STORMY L. MAGIERA,

IN THE DISTRICT COURT

Plaintiff,

GARY FITZGERALD
DISTRICT CLERK
DALLAS COUNTY, TEXAS

Natasha Cooper
DEPUTY

v.

DALLAS COUNTY, TEXAS

CITY OF DALLAS, TEXAS,

Defendant.

95TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF RANDY SUNDQUIST

November 28, 2007

I, Marion Ward, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, RANDY SUNDQUIST, was duly
sworn and that the transcript of the deposition is a
true record of the testimony given by the witness;

MWA REPORTERS 214/363-7471

Oral Deposition - Randy Sundquist
November 28, 2007

1 That the deposition transcript was duly
2 submitted on 12/5/07 to the witness or the
3 attorney for the witness for examination, signature,
4 and return to me by 12/26/07.

5 That pursuant to information given to the
6 deposition officer at the time said testimony was
7 taken, the following includes all parties of record and
8 the amount of time used by each party at the time of
9 the deposition:

10
11
12 Mr. William J. Dunleavy (00h50m)
13 Attorney for Plaintiff
14 Ms. Katherine Jane Wise (00h00m)
15 Attorney for Defendant

16 *FOR PLAINTIFF:*

17 Mr. William J. Dunleavy
18 THE LAW OFFICES OF WILLIAM J. DUNLEAVY, P.C.
19 8140 Walnut Hill Lane
20 One Glen Lakes, Suite 950
Dallas, Texas 75231
(972)247-9200

21 *FOR DEFENDANT:*

22 Ms. Katherine Jane Wise
23 Assistant District Attorney, City of Dallas
1500 Marilla Street
24 City Hall
Dallas, Texas 75201
25 (214)671-9569

Oral Deposition - Randy Sundquist
November 28, 2007


1 That a copy of this certificate was served
2 on all parties shown herein on 12/5/07
3 and filed with the Clerk.

4 I further certify that I am neither counsel
5 for, related to, nor employed by any of the parties in
6 the action in which this proceeding was taken, and
7 further that I am not financially or otherwise
8 interested in the outcome of this action.

9 Further certification requirements pursuant
10 to Rule 203 of the Texas Code of Civil Procedure will
11 be complied with after they have occurred.

12 Certified to by me on this 5th day of

13 December, 2007.
14

15 
16

17 Marion Ward, CSR
18 Texas CSR 876, Firm No. 126
19 Expiration: 12/31/08
20 MWA Reporters
21 6440 North Central Expressway
22 Suite 318
23 Dallas, Texas 75206
24
25

Oral Deposition - Randy Sundquist
November 28, 2007

FURTHER CERTIFICATION UNDER TRCP RULE 203

The original deposition was was not returned
to the deposition officer on 1-9-08.

If returned, the attached Changes and
Signature page(s) contain(s) any changes and the
reasons therefor.

If returned, the original deposition was
delivered to Mr. William J. Dunleavy, Custodial
Attorney.

\$276.00 is the deposition officer's charges
to the Plaintiff for preparing the original deposition
transcript and any copies of exhibits.

The deposition was delivered in accordance
with Rule 203.3, and a copy of this certificate, served
on all parties shown herein, was filed with the Clerk.

Certified to by me on this 9th day of
January, 2008.

M Ward
Marion Ward, CSR
Texas CSR 876, Firm No. 126
Expiration: 12/31/08
MWA Reporters
6440 North Central Expressway
Suite 318
Dallas, Texas 75206

MWA REPORTERS 214/363-7471